



GOVERNMENT OF MONTENEGRO

# ACTION PLAN

FOR CHAPTER 23 JUDICIARY AND FUNDAMENTAL RIGHTS



June 27, 2013

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## I. INTRODUCTORY REMARKS

### 1. BACKGROUND

In the session held on 8 March 2012, the Government of Montenegro adopted the Decision establishing the Working Group for Preparation of Negotiations on the Accession of Montenegro to the European Union in the area of the acquis related to the negotiation chapter 23 – Judiciary and Fundamental Rights (hereinafter referred to as: Working Group 23).

Pursuant to the Decision of the Government, the Working Group consists of 49 members from all three branches of government: legislative, judicial and executive, including five representatives of civil society from non-governmental organisations: Association of Judges, the Centre for Development of NGOs, Centre for Civil Education, NGO “Ikra Rožaje” and the Institute Alternative.

Explanatory screening for Chapter 23 of the acquis covering the area of judiciary and fundamental rights, freedom and security, was held in Brussels on 26 and 27 March 2012.

Bilateral screening for Chapter 23 of the acquis covering the area of judiciary and fundamental rights, freedom and security, was held in Brussels on 30 and 31 May 2012.

At the end of the bilateral meeting, according to the procedure the Chief Negotiator stated on behalf of Montenegro that Montenegro accepted the European Union acquis.

Based on the bilateral meeting and complete screening process, the European Commission summed up the results of the screening process in the screening report which was submitted to the Working Group on 25 December 2012.

The obligation of Montenegro to adopt the Action Plan was set as the sole benchmark for the opening of negotiations on Chapter 23 – Judiciary and Fundamental Rights, which was clearly stated in the letter of the Permanent Representative of the Republic of Cyprus to the European Union from the member state that presided the Union at the moment of submission of the Screening Report.

*“On behalf of the member states of the European Union, you are informed that, in accordance with paragraphs 42 and 43 of the Negotiating Framework and screening of the EU acquis Chapter 23, the EU considers that the opening of this chapter may be considered after the EU confirms that the following benchmark has been met:*

*- Montenegro shall adopt one or more detailed action plans that include related timetables and implications on funds and setting out clear objectives, measurable indicators as appropriate and necessary institutional order in the following areas: Judiciary, Fight Against Corruption and Fundamental Rights.”*

## **2. DESCRIPTION OF THE ACTION PLAN STRUCTURE**

### **2.1. General remarks**

Immediately after the screening process was completed, the Working Group 23 initiated preparation of the starting basis of the Action Plan for Chapter 23 and, in that regard, created an overview of all commitments and deadlines that have been imposed during the bilateral screening, in order to include them in the Action plan.

Officially, the work on the Action Plan was started in December after the reception of the Screening Report.

On 24 January 2013, the Working Group for Chapter 23 received suggestions of the European Commission which also contain framework guidelines on how the Action Plan for Chapter 23 should look like with regard to its structure and contents.

Based on the abovementioned, the Working Group 23 prepared the first Draft Action Plan, as a starting basis and material which needs to be improved in cooperation with the European Commission until its final adoption.

### **2.2. Method of establishing objectives**

The objectives were defined, taking into the account clear recommendations from the Screening Report as well as those given in the course of the screening process on the compatibility of the Montenegrin legal system with the EU acquis. Also, some of the objectives were defined by

taking into account the need to achieve certain standards which are prerequisite for the fulfilment of certain objectives referred to in recommendations contained in the Screening Report.

According to the rules of preparation of the Action plan as a strategic and reform document, as well as according to the European Commission guidelines, the Draft Action Plan contains an overview of activities within a single process which enables the fulfilment of the obligations towards the European integration in a planned and proactive manner, through the accomplishment of clearly defined objectives.

The Action Plan represents an overview of mechanisms and activities based on which it is evident what is intended to be achieved within a specified period, based on realistic assessments and within the objective possibilities.

### **2.3. Method of determining measures**

Measures in the Action Plan for Chapter 23 were designed towards fulfillment of recommendations defined by the Screening Report for this chapter. All the measures contained in this Action Plan are harmonized with measures provided in national strategic documents (Judicial Reform Strategy, Plan for Rationalization of the Judicial Network, Strategy for the Fight against Corruption and Organized Crime, Strategy for the Integration of Persons with Disabilities, Strategy for Durable Solution to the Issue of Displaced and Internally Displaced Persons with special emphasis on the Konik site, Strategy for Improving the Status of LGBT People, as well as other relevant strategic documents in the area of human rights).

Recommendations provided in the Screening Report and which were defined as goals are divided into measures. During prescription of measures, priorities were taken into account; these priorities were assessed as precondition for fulfillment of certain other goals, i.e. their achievement was deemed necessary in the shortest possible period of time. Measures were classified as well in relation to priorities; these measures were presented chronologically in the Action Plan, depending on determined deadlines for their implementation.

Prescribed measures can be divided into three groups: normative harmonization, strengthening institutional and administrative framework, as well as implementation of necessary educational activities for staff and raising awareness of citizens (*where applicable*), all with the view to implementing the legal framework in the best possible manner and achieving the appropriate standard where necessary.

It is important to point out that the planned measures were not conceived so as to ensure their classical implementation, in terms of achieving a certain degree of alignment, but special attention was devoted to conceiving them, where possible, in such a manner that their implementation clearly reflects the influence of the reform.

#### **2.4. Method of determining deadlines**

Deadlines were determined with regard to implementation of every activity individually, which as a set of measures provide for the achievement of determined goal.

For each sub-area of Chapter 23, activities were projected and represented in the manner which chronologically follows time dynamics of their implementation, starting from 2013. In that context, priorities in implementation of activities were determined as well, in accordance with the following structure of implementation dynamics:

- **Short – term priorities** - include activities which will be implemented in 2013 and 2014;
- **Mid – term priorities** – include measures which will be implemented in 2015 and 2016;
- **Long – term priorities** - include measures which will be implemented in the period starting from 2017 and later.

Deadlines were precisely defined for implementation of measures from 2013 and 2014 by stating the month and the year in which their implementation is planned. When it comes to mid – term priorities, implementation of measures is planned by quarters, while implementation of long – term measures is defined on semi – annual level.

In relation to the time structure of established priorities, at the end of the introductory section, a plan is given and an opportunity for periodic updating of the Action Plan is foreseen, based on the semi - annual reporting on implementation of activities and planning of the activities to the possible extent.

The intention is to enable, through structuring of deadlines, a better monitoring of the success of implementation of the Action Plan and creation of adequate conditions for the European Commission to set up an overview of measurable results, as well as to be to contribute, at any time, to improvement of the substance of the Action Plan through their suggestions.

It should also be noted that the deadlines for performance of activities from the already approved IPA projects have been adjusted to deadlines defined by projects themselves, and the beginning of performance of these activities depends on the beginning of implementation of the project itself. It would be the same for activities, for which funds from IPA II will be approved (2014 – 2020).

## **2.5. Method of determining the responsible authorities for implementation of measures**

For each individual measure, an institution was specifically determined, i.e. a body that will be responsible for its implementation.

For some measures requiring involvement of several institutions and inter-ministerial cooperation, the institution in charge for carrying out and coordinating the implementation of activities was placed first, while the other institutions provide support in achieving as high and efficient level of implementation as possible.

In the measures which refer to amendments of the existing and development and adoption of new pieces of legislation, multidisciplinary working groups will be established, in accordance with the content of that piece of legislation, with participation of interested representatives from the civil sector, in accordance with the Decree on Method and Procedure of Establishing Cooperation between State Administration Bodies and Non – Governmental Organisations (Official Gazette of Montenegro 07/12 of 30 January 2012) and the Decree on Method and Procedure of Conducting the Public Dispute in Preparation of Laws (Official Gazette of Montenegro 02/12 of 24 February 2012).

## **2.6. Method of determining the necessary financial resources**

The Action Plan defines the funds required for implementation of envisaged measures, and it should be noted that the Budget of Montenegro will represent the major source of financing. The budgetary resources prescribed for the measures related to law and bylaw amendments encompass gross amount of the regular salaries of the employees working on drafting of this legislation, as well as regular costs of public discussion and governmental and parliamentary committees working costs, in all stages from drafting to adopting legislation. This means that



for these measures additional budgetary resources are not required so they are always prescribed as regular. Bearing in mind that the expert assistance is required for implementation of certain measures, the engagement of foreign experts through TAIEX assistance mechanism has been envisaged. Also, considering that significant amount of funds is required for implementation of certain measures, possible donations of international organisations or EU Member States through projects and bilateral agreements have been stated as the potential sources of financing, along with plans for submission of applications for financing through IPA programming 2014 – 2020.

Priority activities from this Action Plan are completely harmonised with priority activities for financing from IPA II.

For activities planned to be implemented in 2013 and 2014, the exact amount of costs and the source of financing are indicated.

For activities planned to be implemented in 2015 and 2015, an approximate amount of costs (cca.) is indicated as well as the source from which the funds is likely to be obtained.

For activities planned to be implemented in 2017 onwards, it is indicated that financial assessment will be made in accordance with preparation of project proposals and thus assessed financial needs.

## **2.7. Method of determining the indicators of results and impacts**

Implementation performance indicators were set with respect to each measure individually. Indicators were set up to facilitate the manner of monitoring the implementation of the action plan, both in quantitative and especially in qualitative terms. In this respect, two types of indicators were determined: result indicator and impact indicator, where possible. In this manner, the aim is to project clear results that will, at the same time, project a concrete impact towards improving operational standards or the condition in a particular area in general.

Each indicator was set so as not only to monitor the implementation of certain activities up to the level of alignment (result indicator), but in a way that the level of implementation (impact indicator), namely the implementation of a new standard with respect to citizens and all stakeholders can be assessed (for example: an indicator of amendment or adoption of a law is not only its adoption, but also, where possible,

statistical data on the implementation of the law, reports, in some cases research, etc. – hence, measurable data pointing to changes made in society).

## **2.8. Participation of all relevant stakeholders in the preparation of the Action Plan for Chapter 23**

The current composition of the Working group for Chapter 23 is: three representatives from the Ministry of Justice (of which one is the Chief of the WG), as well as from the Ministry of Finance, two representatives from the Ministry of Sustainable Development and Tourism, Supreme Court, Public Prosecution's Office, cabinet of the Prime minister, Parliament, State Audit Institution, Public Property Administration, Public Procurement Directorate, Commission for Prevention of Conflict of Interest and one representative from the Ministry of Interior, Ministry of Health, Ministry of Education, Ministry of Culture, Ministry of Economy, Ministry of Foreign Affairs and European Integration, Ministry for Human and Minority Rights, Ministry of Labour and Social Welfare, Customs Administration, Tax Administration, Real Estate Administration, Human Resource Administration, Directorate for Anti-corruption Initiative, Administration for Prevention of Money Laundering and Financing Terrorism, Games of Chance Administration, Agency for Personal Data Protection and Free Access to Information, Bar Association, Judicial Training Centre, Commission for Control of Public Procurements Procedures, Faculty of Law and five representatives of the NGO.

During the preparation of the Action plan it had been noted that the initial structure of the Working group does not meet the needs of the negotiation process in this Chapter. Namely because of the content of the Screening report in the current composition of the Working group some of the members could not effectively contribute or according to the competences of the participating institution could not meet the needs of this process. For this reason, during the preparation of the Action Plan it was necessary to engage a number of representatives of various institutions which were not formally members of the Working group.

Having in mind above stated and especially in terms of realization of the Action plan and establishing of efficient monitoring mechanism, the formal composition of the Working group will be amended in order to aligned it with the upcoming obligations after the adoption of the Action plan. In that sense, the Working group will be consisted from the representatives of the Protector of Human Rights and Freedoms, Police Directorate, Prosecutorial Council, Secretariat of the Judicial Council and the number of the representatives of the Ministry of Justice, Ministry of Interior, Ministry for Human and Minority Rights, Ministry of Labour and Social Welfare and Directorate for Anti-corruption Initiative will be increased.

In line with the negotiating framework, the draft Action Plan was developed through a process of consultation with key stakeholders and the full inter-ministerial cooperation of all the responsible institutions and bodies, in order to provide maximum support for implementation.

In the professional part, the important contribution was paid by representatives of civil sector in the Working Group 23 as well, who were completely involved through process of participation in development and final design of the Action Plan.

As regards financial estimates, as already stated, a more extensive deadline is required for alignment, so as to project each objective and measure so that the financial aspect does not pose a limitation, but to be supportive.

Special attention on the occasion of designing this draft was given to the aspiration to include as many experts as possible into the preparation of the Action Plan. In the forthcoming period, until the final adoption of the Action Plan, it is envisaged, pursuant to the requirements addressed at the European Commission, to engage experts through the TAIEX support instrument, for each concrete sub-area of the Action Plan individually.

## **2.9. Monitoring**

During the implementation of the action plan, special attention will be paid to the performance of continuous monitoring of the implementation of all the measures and the level of achievement of projected objectives.

In that part, the Working Group 23 is in charge, at the most operative level, for monitoring and reporting on the implementation of obligations, and above it, pursuant to the Decision on Negotiating Structures, there are a member of the Negotiating Group, Chief Negotiator, the College and the Government.

In the monitoring of implementation, special support is expected from the civil sector, whose representatives are members of the Working Group 23 and who will significantly, with their expert comments and suggestions, contribute to improving the implementation of each activity, its monitoring, but also to maintenance of the necessary level of transparency.

Regular monitoring of the implementation of the set obligations will enable, through inter-ministerial communication, as well as in co-operation with the European Commission, the creation of an adequate mechanism for possible updating and reviewing of certain activities during the implementation of the Action Plan.

Specifically, the monitoring of the implementation of the Action Plan presupposes the existence of a coordinator for particular areas of the Action Plan. The coordinators will have a direct co-operation with the focal points in the bodies responsible for the implementation of envisaged activities and will receive information on all the issues that are of importance for the implementation from them. This means that one person will be determined, and that person will be responsible for reporting on the implementation of defined measures. Those focal points will report to the coordinators every three months, who in turn will prepare a semi-annual report on undertaken activities on the basis of those reports. The semi-annual report created in such a manner is approved by the Head of the Working Group and a member of the Negotiating Group, upon which it is submitted to the Ministry of Foreign Affairs and European Integration as the main coordinator of the accession process of Montenegro to the European Union. Then, the report is discussed by the Government and submitted to the European Commission through the MFAEI.

Along with the data on implemented measures, the report will also include the data on possible difficulties in their implementation and the reasons for failing to fulfill the obligations from the Action Plan.

Along with the abovementioned, “formal” manner of reporting by submitting a three-month report, ad hoc, “informal” informing at the request of the Head, members of the Working Group, Coordinators for particular areas, as well as the European Commission, or the EU Directorate General for Enlargement

### **3. AREAS COVERED BY THE ACTION PLAN**

In accordance with the position of the Member States of the European Union and the communication of the Cyprus Presidency, the Draft Action Plan was designed so as to cover 3 sub-areas: *Judiciary, Fight against corruption, and Fundamental rights*.

Prior to presentation of the objectives and measures for each sub-area, in order to consider their projections as adequately as possible, a brief description of the current state of play in that sub-area is provided, which represents the starting basis for the projection of future activities.

Within each sub-area, bearing in mind the wide range of issues covered, as well as the objective – to ensure easier referencing of the material and monitoring of implementation of the measures set, each sub-area is divided into headings, namely topics of which it consists and which follow the recommendations from the Screening Report, as follows:

## **I. Judiciary**

6. *Strengthening independence of the judiciary*
7. *Strengthening impartiality in the judiciary*
8. *Accountability in the judiciary*
9. *Professionalism, competence and efficiency in the judiciary*
10. *Domestic handling of war crimes*

## **II. Fight against corruption**

1. *Prevention of corruption*
2. *Repression of corruption*

## **III. Fundamental rights**

3. *Strengthening capacity of the Ombudsman and its role as a national mechanism for the prevention of torture*
4. *Introduction of an effective legal remedy in accordance with Article 13 of the European Convention on Human Rights and Freedoms in relation to the violation of human rights guaranteed under the Convention*
5. *Prevention of torture or inhuman or degrading treatment or punishment*
6. *Freedom of media and protection of journalists*
7. *Independence of audiovisual regulator and public broadcaster*
8.
  - a) *Prohibition of discrimination*
  - b) *Gender equality*
  - c) *Rights of LGBT population*
9. *Right of establishment of trade unions*
10.
  - a) *Rights of a child*
  - b) *Rights of disabled persons*
11. *Free legal aid*
12.
  - a) *Protection of minorities and RAE population*
  - b) *Rights of displaced persons*
13. *Prosecution of hate crimes*
14. *Protection of personal data*

#### 4. ACTION PLAN UPDATES

On the occasion of setting priorities (short, medium and long term), and in planning of objectives and measures in the Draft Action Plan, care was taken to leave some room that would allow for flexibility in planning the medium and, especially, long-term priorities.

We have taken into account the suggestion of the European Commission that the Action Plan – its preparation and implementation – is a multi-stage process. Namely, when the first stage of the Action Plan – short-term priorities – is completed, along with parallel projection and planning of medium-term priorities, the Action Plan will possibly be updated, especially taking into account certain new circumstances that could arise in the form of new legislation of the European Union, new information systems and software, and the like.

In order to monitor the letter from the EU presidency and the Screening Report, and to adjust the Action Plan to dynamic process of development of the national, as well as degree of development of the acquis under Chapter 24, automatic innovation will be performed after two years, in order to provide details for implementation of mid – term measures (2015 – 2016) and long – term measures to the possible extent (2017 and forth). That should be the opportunity to consider results from the previous phase of implementation, the real impact and consequences of measures.

## 1. JUDICIARY

### 1.1. STRENGTHENING OF INDEPENDENCE OF JUDICIARY

#### INTRODUCTION

The independence of the judiciary and the Public Prosecution Office is guaranteed by the Constitution and laws adopted based on the Constitution. Article 118 and Article 3 of the Law on Courts endorse the principle of the independence of judges so that, in performing their duties, judges are obliged to abide only by the Constitution, laws and international treaties, whereas the principle of independence for public prosecutors is guaranteed by Article 134 of the Constitution and Article 3 of the Law on Public Prosecution Office so the public prosecution office is an independent public body which prosecutes the perpetrators of criminal offences and in performing its duties the public prosecution office proceeds according to the Constitution, laws and international treaties. Judges are elected and dismissed by the Judicial Council established as an independent and autonomous body since 2008. The President of the Supreme Court is elected and dismissed by the Parliament on the proposal of the President of Montenegro, the Prime Minister and the Speaker of the Parliament. Public prosecutors are elected and dismissed by the Parliament on the proposal of the Prosecutorial Council for a period of five years, whereas deputy public prosecutors are elected and dismissed by the Prosecutorial Council. Deputies have tenure, with the exception of those elected for the first time in the Basic Public Prosecutor's Office and they are elected for a period of three years. The Prosecutorial Council is elected and dismissed by the Parliament.

The office of judges is permanent, while a judge can be dismissed only if convicted for a criminal offence which makes him/her unfit for performing judicial office, if he/she performs the office unprofessionally and unconscientiously or permanently loses the ability to perform judicial office. Judges enjoy functional immunity which implies that they cannot be held liable for the opinion and voting expressed upon passing judicial decision, unless it concerns a criminal offence and that in the proceedings initiated for a criminal offence committed in performing judicial office, detention cannot be ordered without the approval of the Judicial Council. This means that judges are not protected by immunity if they committed criminal offence and that the approval of the Judicial Council is necessary only in case the judge is detained for a criminal offence he/she committed in exercising judicial office. Public prosecutors enjoy the identical functional immunity.

Amendments to the Law on the Judicial Council, the Law on Courts and the Law on Public Prosecution Office of June 2011 introduced certain improvements regarding the strengthening of independence of judiciary and elimination of the recognised potential political influence on judiciary through appropriate legal solutions. Key amendments are the following:

- involvement of judicial authorities in the procedure of election of the President of the Supreme Court, so that the President of Montenegro, the Prime Minister and the Speaker of the Parliament propose the candidate for the Supreme Court President to the Parliament based on the recommendations of three candidates provided by the Judicial Council with previously obtained opinion of the Supreme Court Bench;
- judicial authorities are involved in the procedure of election of the Judicial Council members by the President of Montenegro, by prescribing the procedure according to which the President obtains candidates based on the consultations with the Bar Association and the Faculty of Law along with the opinion of the enlarged session of the Supreme Court;
- as regards the members of the Judicial Council elected from among judges, the law stipulates that the Commission carries out the election procedure and it also envisages a proportional representation of all levels of courts according to the principle of pluralism provided that one member of the Judicial Council

is a judge from a basic court;

- more objective and transparent procedure for the election of judges who are elected for the first time and who are promoted along with the election criteria defined in detail as well as the provision of legal remedies for the protection of candidates;
- reasons for disciplinary liability are provided by the law in detail so that judges and public prosecutors can be held liable only for the misconduct in office which has already been provided by the law as a reason for liability;
- composition of the Prosecutorial Council is altered so that the Supreme Public Prosecutor is no longer the President of the Prosecutorial Council but only its member as well as the competence of the Prosecutorial Council to appoint the Special Prosecutor on the proposal of the Supreme Public Prosecutor.

As regards the implementation of the mentioned legislative amendments, the Judicial Council and the Prosecutorial Council have adopted new Rules of Procedure; the Commission for the monitoring of the application of the codes of ethics of judges and public prosecutors have been formed; there are newly formed Disciplinary Commissions in the Judicial Council and in the Prosecutorial Council; procedures for the election and disciplinary liability are carried out according to new criteria and are created in line with the new legislative solutions; the Judicial Council started to work in June 2012 and the Prosecutorial Council started to work in August 2012.

The 2013 Law on Budget provides EUR 20,296,979.73 for courts and EUR 5,805,672.35 for public prosecution offices, whereas the allocation for the Constitutional Court totals EUR 727,807.96. Within the budget for courts, EUR 678,837.48 is allocated for the Judicial Council, EUR 10,276,043.64 for courts and EUR 9,342,098.61 for administration. Within the budget for the public prosecution offices, EUR 137,752.88 is allocated for the Prosecutorial Council, EUR 4,126,678.37 for prosecution offices and EUR 1,541,241.10 for administration. The administrative capacities of the Judicial Council's Secretariat include 29 civil servants and state employees, whereas the Rulebook on internal organisation and job description envisages 51 working posts. The Prosecutorial Council does not have a secretariat, but it is supported by the services established within the Supreme Public Prosecutor's Office such as: Service for Legal, General and Administrative Affairs (3 employees), Service for Accounting and Finance (3 employees), and Service for Information-Communication Technologies and Multimedia (1 employee). Montenegro is committed to provide budget for judiciary on annual level to be from 08% to 1% of GDP.

- Reform of the judiciary has been implemented since 2007 in line with the Judicial Reform Strategy 2007-2012 and the Action Plan for its implementation. Drafting of the new Strategy of Judiciary Reform 2013-2018 was initiated in 2013, and it is expected that the new Strategy will be adopted in the third quarter of 2013. Based on the Strategy, the Action plan for its implementation will be developed for period 2013-2018. Action plan for negotiation chapter 23 is a document which gives effect to the recommendations laid down in the Screening Report, it is higher in hierarchy level, and it refers to the period of minimum five or more years. Two Action plans are compatible and adjusted to national and international priorities of judiciary reform in Montenegro. In this regard, two Action plans will encompass similar or even the same measures in those part where priorities stated in the Strategy and those stated in the Screening Report match.

However, notwithstanding the above mentioned guarantees of the independence of judiciary, there are certain needs for the improvement, primarily through the amendments to the Constitution, especially regarding the election of the President of the Supreme Court, composition of the Judicial Council, election of public prosecutors and the Prosecutorial Council. Also, there is a need recognised to improve conditions and criteria for the election of judges and public prosecutors, especially of those who are promoted, and to improve administrative capacities of the Judicial and Prosecutorial Councils as well as to provide financial resources for adequate exercise of jurisdictions thereof.

Bearing in mind the mentioned shortcomings, as well as the 2012 Montenegro Progress Report and the Screening Report on the Chapter 23, the Action Plan



provides a proposal for key objectives and measures that need to be implemented for the purpose of establishing the independent judiciary in Montenegro.

**1.1. INDEPENDENCE OF JUDICIARY**

No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
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**1.1.1.** Recommendation: Montenegro should amend its Constitution in line with the Venice Commission recommendations and European standards, ensuring independence and accountability of the judiciary. Changes should include, inter alia, the following points: The Judicial Council and the Prosecutorial Council should be composed by at least 50% of members stemming from the judiciary. These members should be selected by their peers, representing different levels of jurisdiction, without involvement of the Parliament (unless solely declaratory). State prosecutors should not be elected by the Parliament. Reasons for dismissal of judges and state prosecutors should be introduced in the Constitution.

1.1.1.1	Amend the Constitution in the part governing the judiciary in line with the opinion of the Venice Commission, particularly as regards: <ul style="list-style-type: none"> <li>- composition of the Judicial Council,</li> <li>- election of the President of the Supreme Court,</li> <li>- election of public prosecutors and of the Supreme Public Prosecutor,</li> <li>- composition of the Prosecutorial Council</li> <li>- reasons for dismissal of judges and public prosecutors;</li> <li>- composition and method of election of judges of the Constitutional Court.</li> </ul>	Parliament	July 2013	Budget	Amendments to the Constitution adopted; Constitutional Law for the enforcement of the Amendments to the Constitution adopted	Positive opinion of the European Commission (Progress Report); Report of the EC expert mission; Report of the Venice Commission
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**1.1.2.** Recommendation: The recruitment process needs to be transparent and merit based. A single, nationwide recruitment system should be introduced, which could be based on anonymous tests for all candidates and obligatory training before being appointed judge/deputy prosecutor. The Judicial Training Centre could be involved in the testing process.

1.1.2.1	<p>Amend the Law on the Judicial Council according to amendments to the Constitution, particularly as regards:</p> <ul style="list-style-type: none"> <li>- procedure for election of the Judicial Council members who are not judges;</li> <li>- establishment of a single system of election of judges at the national level on a basis of a transparent and merit-based procedure;</li> <li>- introduction of periodical evaluation of the work of judges and presidents of the courts ;</li> <li>- introduction of the merit-based promotion system;</li> <li>- introduction of criteria for permanent reassignment of judges from one court to another on voluntary basis.</li> </ul>	Ministry of Justice, Government, Parliament	September 2013 - October 2014	Budget and TAIEX EUR 59,850	Law adopted	Positive opinion of the European Commission (Progress Report); Report of the EC expert mission
1.1.2.1.1	Make an expert analysis of the model for introducing a single system for election of judges at the national level, permanent reassignment of judges on voluntary basis, and criteria for evaluation of judges' performance and merit-based promotion system	Ministry of Justice	October 2013	TAIEX assistance EUR 2,700	Expert analysis made by an independent expert engaged through TAIEX	
1.1.2.1.2	Prepare a working version of the Law on the Judicial	Ministry of Justice	November 2013 to	Budget EUR 17,820	Working version of the Law on the	

		Council by a multi-disciplinary working group (representatives of courts, Judicial Council, Ministry of Justice and NGOs)		February to 2014		Judicial Council prepared	
	1.1.2.1.3	Draft the Law on the Judicial Council	Government	April 2014	Budget EUR 4,455	Law drafted	
	1.1.2.1.4	Organise public debate	Ministry of Justice	May 2014	Budget EUR 3,810	Public debate organised; Public debate programme	
	1.1.2.1.5	Obtain opinion of the EU experts	Ministry of Justice	June 2014	TAIEX expert assistance EUR 2,700	Opinion of the European Commission experts	
	1.1.2.1.6	Adopt Proposal for the Law on the Judicial Council	Government	September 2014	Budget EUR 13,365	Proposal for the Law adopted	
	1.1.2.1.7	Adopt the Law on the Judicial Council	Parliament	October 2014	Budget EUR 15,850	Law adopted	
1.1.2.2		Amend the Law on Courts in line with the amendments to the Constitution, especially regarding: - conditions for the election of judges in terms of stipulating the obligation of completing a mandatory training organised by the Judicial Training Centre - introducing the periodical professional assessment of performance of judges and presidents of courts, as a condition for their promotion	Ministry of Justice, Government, Parliament	September 2013 - October 2014	Total budget EUR 49,549  Regular budgetary funds EUR 39,694  TAIEX assistance EUR 2,700	Law adopted	Positive opinion of the European Commission (Progress Report); Report of expert mission
	1.1.2.2.1	Make an expert analysis of the permanent reassignment of judges on	Ministry of Justice	October 2013	TAIEX assistance EUR 2,700	Expert analysis made by an independent expert engaged	

		voluntary basis, and criteria for evaluation of judges' performance as a condition for promotion (reference activity 1.1.2.1)				through TAIEX	
	1.1.2.2.2	Prepare a working version of the Law on Courts and Judges by a multidisciplinary working group (representatives of courts, Judicial Council, Ministry of Justice and NGOs)	Ministry of Justice	November 2013 – February 2014	Budget EUR 11,394	Working version of the Law on Courts and Judges prepared	
	1.1.2.2.3	Draft the Law on Courts and Judges	Government	April 2014	Budget EUR 4,455	Law drafted	
	1.1.2.2.4	Organise public debate	Ministry of Justice	May 2014	Budget EUR 3,810	Public debate organised; Public debate programme	
	1.1.2.2.5	Obtain opinion of the European Commission	Ministry of Justice	June 2014	TAIEX EUR 2,700	Opinion of the European Commission experts	
	1.1.2.2.6	Adopt Proposal for the Law on Courts and Judges	Government	September 2014	Budget EUR 8,950	Proposal for the Law adopted	
	1.1.2.2.7	Adopt the Law on Courts and Judges	Parliament	October 2014	Budget EUR 15,000	Law adopted	
1.1.2.3		Amend the Law on Public Prosecution Office in line with the amendments to the Constitution, especially with regard to: <ul style="list-style-type: none"> <li>- procedure for election of members of the Prosecutorial Council;</li> <li>- establishment of a single</li> </ul>	Ministry of Justice, Government, Parliament	September 2013 - October 2014	Total budget EUR 49,549  Regular budgetary funds EUR 39,694  TAIEX assistance EUR 2,700	Law adopted	Positive opinion of the European Commission (Progress Report); Report of expert mission

	<p>system for election of public prosecutors and deputy public prosecutors at the national level;</p> <ul style="list-style-type: none"> <li>- completed mandatory training organised in the Judicial Training Centre as a condition for the election of deputy public prosecutors;</li> <li>- introduction of the system for periodical professional evaluation of performance of public prosecutors and their deputies;</li> <li>- introduction of the merit-based promotion system;</li> <li>- improvement of the criteria for greater voluntary mobility of deputy public prosecutors</li> </ul>					
1.1.2.3.1	Make an expert analysis of the system for election of public prosecutors at the national level, criteria for evaluation of public prosecutors' performance and merit-based promotion system	Ministry of Justice	October 2013	TAIEX expert assistance EUR 2,700	Expert analysis made by an independent expert engaged through TAIEX	
1.1.2.3.2	Prepare a working version of the Law on Public Prosecution Office by a multi-disciplinary working group (representatives of public prosecution offices,	Ministry of Justice	November 2013 – February 2014	Budget EUR 11,394	Working version of the Law on Public Prosecution Office prepared	

		Prosecutorial Council, Ministry of Justice and NGOs)					
	1.1.2.3.3	Draft the Law on Public Prosecution Office	Government	April 2014	Budget EUR 4,455	Law drafted	
	1.1.2.3.4	Organise public debate	Ministry of Justice	May 2014	Budget EUR 3,810	Public debate organised; Public debate programme	
	1.1.2.3.5	Obtain opinion of the European Commission	Ministry of Justice	June 2014	TAIEX EUR 2,700	Opinion of the European Commission experts	
	1.1.2.3.6	Adopt Proposal for the Law on Public Prosecution Office	Government	September 2014	Budget EUR 8,950	Proposal for the Law adopted	
	1.1.2.3.7	Adopt the Law on Public Prosecution Office	Parliament	October 2014	Budget EUR 15,000	Law adopted	
1.1.2.4		Amend the Rules of Procedure of the Judicial Council in line with the amendments to the Law (reference activities 1.1.2.1 and 1.1.2.2)	Judicial Council	November – December 2014	Budget EUR 5,130	Rules of Procedure adopted	Report on operation of the Judicial Council
1.1.2.5		Amend the Rules of Procedure of the Prosecutorial Council in line with the amendments to the Law (reference activity 1.1.4)	Prosecutorial Council	November – December 2014	Budget EUR 5,130	Rules of Procedure adopted	Report on operation of the Prosecutorial Council
1.1.2.6		Amend the Law on the Constitutional Court in line with amendments to the Constitution with reference to: - composition and election of judges of the Constitutional Court and the President of the Constitutional Court - functional composition of judges in making decisions upon constitutional	Ministry of Justice, Government, Parliament	September 2013 - October 2014	Total budget EUR 49,549  Regular budgetary funds EUR 39,694  TAIEX assistance EUR 2,700	Law adopted	Positive opinion of the European Commission (Progress Report); Report of expert mission

	complaints					
1.1.2.6.1	Prepare a working version of the Law on the Constitutional Court by a multi-disciplinary working group (representatives of the Constitutional Court, judiciary, Ministry of Justice and NGOs)	Ministry of Justice	November 2013 – February 2014	Budget EUR 11,934 TAIEX EUR 2,700	Working version of the Law on the Constitutional Court prepared	
1.1.2.6.2	Draft the Law on the Constitutional Court	Government	April 2014	Budget EUR 4,455	Law drafted	
1.1.2.6.3	Organise public debate	Ministry of Justice	May 2014	Budget EUR 3,810	Public debate organised; Public debate programme	
1.1.2.6.4	Obtain opinion of the European Commission	Ministry of Justice	June 2014	TAIEX EUR 2,700€	Opinion of the European Commission experts	
1.1.2.6.5	Adopt Proposal for the Law on the Constitutional Court	Government	September 2014	Budget EUR 8,950	Proposal for the Law adopted	
1.1.2.6.6	Adopt the Law on the Constitutional Court	Parliament	October 2014	Budget EUR 15,000	Law adopted	
1.1.2.6.7	Adopt amendments to the Rules of Procedure of the Constitutional Court in line with amendments to the Law	Constitutional Court	November – December 2014	Budget EUR 5,130	Rules of Procedure adopted	Report on operation of the Constitutional Court
<b>1.1.3 Recommendation: A fair and transparent system of promotion of judges and prosecutors needs to be established together with a periodical professional assessment of judges and prosecutors' performance.</b>						
No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
1.1.3.1.	Amend the Law on the Judicial Council					

	and the Law on Courts (reference activities 1.1.2.1 and 1.1.2.2)					
1.1.3.2.	Amend the Law on Public Prosecution Office (reference activity 1.1.2.3)					
1.1.3.3	Pursuant to amendments to the Law, develop a system for merit-based promotion of judges and public prosecutors, and consequently promote judges and public prosecutors from a lower to a higher instance in accordance with the criteria stipulated by the Law	Judicial Council, Prosecutorial Council	First quarter of 2015 and continuously	Budget for 2015 EUR 37,908 IPA 2012-2013 (EU Rule of Law)	Procedures for promotion of judges and public prosecutors implemented in accordance with the Law, promotion is merit-based through fair, objective and transparent procedures	Number of judges promoted on the basis of positive evaluation of their performance;  Number of public prosecutors promoted on the basis of positive evaluation of their performance  Efficient functioning of the judicial system and high quality of court decisions
1.1.3.4.	Pursuant to amendments to the Law, develop a system for periodical professional evaluation of performance of judges and the presidents of court and public prosecutors and their deputies, and consequently professionally evaluate performance of judges and public prosecutors in accordance with the Law	Judicial Council Prosecutorial Council	First quarter of 2015 and continuously	Budget for 2015 EUR 45,684 IPA 2012-2013 (EU Rule of Law)	Professional evaluation of performance of judges and public prosecutors implemented in accordance with the Law	Reports of Judicial Council and Prosecutorial Council on evaluation of performance of judges and public prosecutors  Measures (dismissal, promotion) applied based on reports on professional evaluation  Report of the EC Expert Mission



1.1.4 Recommendation: Sufficient administrative capacities and financial means need to be ensured to the Judicial and the Prosecutorial Councils to effectively perform their tasks.							
1.1.4.1	Establish the Judicial Council in line with the adopted amendments to the Constitution and the Law		President of Montenegro	First quarter of 2015	Budget EUR 4,512	Decree of the President of Montenegro	The first constitutional session held
	1.1.4.1.1	Select members from among the judges	Conference of Judges	First quarter of 2015	Budget EUR 2,986	Members selected from among the judges	Members coming from among the judges accounting to at least 50% of the total number of members
	1.1.4.1.2	Select members who are not judges	President of Montenegro, Parliament	First quarter of 2015	Budget EUR 1,526	Members who are not judges selected	Members selected from among the renowned lawyers
1.1.4.2.	Establish the Prosecutorial Council in line with the adopted amendments to the Constitution and the Law		President of Montenegro	First quarter of 2015	Budget EUR 4,512	Decree of the President of Montenegro	The first constitutional session held
	1.1.4.2.1.	Select members from among the public prosecutors	...	First quarter of 2015	Budget EUR 2,986	Members selected	Members coming from among public prosecutor accounting for at least 50% of the total number of members
	1.1.4.2.2	Select the members who are not public prosecutors	...	First quarter of 2015	Budget EUR 1,526	Members selected	Transparent manner of selection of members
1.1.4.3.	Strengthen the administrative capacities of the Judicial Council's Secretariat		Judicial Council	September 2013 continuously	Additional budgetary funds required EUR 291,858	Report on operation of the Judicial Council's Secretariat	
	1.1.4.3.1.	Conduct employment procedures in the Secretariat on the basis of the Rulebook on internal organisation and job	Judicial Council	September 2013 – January 2016	Additional budgetary funds required: EUR 81,600 in 2014, EUR 158,400	In 2014, 6 new employees recruited in the Judicial Council's Secretariat.	Report of Judicial Council on operation of the Judicial Council's Secretariat

	description so as to:  - employ 6 new employees in 2014, as follows: 3 employees in ICT Section, 1 in the Internal Audit Section, 1 in the General Affairs Service, and 1 in the Finance Service, - employ 9 new employees in 2015, as follows: 6 employees in ICT Section, 1 in the Internal Audit Section, 1 in the General Affairs Service and 1 in the Legal Affairs Section			in 2015	In 2015, 9 new employees recruited in the Judicial Council's Secretariat.	
1.1.4.3.2.	Assess the needs for training and organise trainings of employees	Judicial Council, Human Resources Administration	Continuously	Budget for 2014 EUR 45,000 Donor assistance of the Kingdom of Norway (IGM) EUR 5,400	Needs for trainings identified, Trainings organised	
1.1.4.3.3.	Make analysis of the existing administrative capacities of the Judicial Council's Secretariat	Judicial Council	Third quarter of 2014	Budget EUR 729	Analysis made	
1.1.4.3.4.	Amend the Rulebook on internal organisation and job description, provided that the analysis under item 1.1.3.3.3 identifies the need for increasing a number of	Judicial Council, Government	First quarter of 2015	Budget EUR 729	Rulebook on internal organisation and job description adopted	

		working posts					
1.1.4.4.	Improve administrative support to the work of the Prosecutorial Council		Prosecutorial Council	June 2013 - 2015	Additional budgetary funds required EUR 196,830		
1.1.4.4.1.	<p>In line with the Rulebook on internal organisation of the Supreme Public Prosecutor's Office:</p> <ul style="list-style-type: none"> <li>- recruit one employee in the Accounting Section in 2013,</li> <li>- recruit 3 new employees in 2014, as follows: two IT experts for the needs of developing IT system in the Public Prosecution and one employee in the General Affairs Service</li> </ul>		Prosecutorial Council	June 2013 – March 2014	Additional budgetary funds required EUR 7,290 in 2013, EUR 48,600 in 2014	In 2013, one new employee recruited  In 2014, 3 new employees recruited	
1.1.4.4.2.	Adopt the Rulebook on internal organisation and job descriptions for the purpose of establishing the Prosecutorial Council's Secretariat upon the needs assessment		Prosecutorial Council, Government	First quarter of 2015	Budget EUR 729	Needs for new working posts in the Secretariat assessed, Rulebook on internal organisation and job description adopted	
1.1.4.4.3.	Take over employees of the Supreme Public Prosecutor's Office who work for the needs of the Prosecutorial Council and		Prosecutorial Council, Human Resources Administration	Second quarter of 2015	Budget EUR 48,600	Employees taken over from Accounting Section, IT Section and General Affairs Service and	Prosecutorial Council's Secretariat established

		conduct recruitment procedures for new working posts				reassigned to the Supreme Public Prosecutor's Office; Lacking staff, identified by the needs assessment, recruited	
	1.1.4.4.4	Assess the needs for training and organise trainings for employees	Prosecutorial Council, Human Resources Administration	Second quarter of 2015 and continuously	Additional budgetary funds required in 2015 EUR 10,729	Needs for trainings identified	Number of organised trainings; Number of participants in trainings; Improved work of the Prosecutorial Council
1.1.4.5.	Provide budgetary funds for undisturbed work of the Judicial and Prosecutorial Councils as well as for courts and public prosecution offices	Judicial Council, Prosecutorial Council, Government, Ministry of Finance, Parliament	From 2014 Continuously	Budget of the Judicial Council in 2013 = EUR 678,837.48, Budget of the Prosecutorial Council in 2013 = EUR 137,752.88  Budget for courts EUR 19,618,142.25  Budget for public prosecution offices EUR 5,667,919.47	Budgetary funds for undisturbed work of the Judicial and Prosecutorial Councils provided	Provided budgetary funds for the judiciary at the annual level ranging from 0.8% to 1% of GDP	

**1.1.5. Recommendation: Ensure internal independence of judges and review the system of orders within the prosecution system.**

1.1.5.1.	Stipulate the new criminal offence of illicit influence on judges and public prosecutors in the Law on Amendments to the Criminal Code	Ministry of Justice, Government, Parliament	September 2013	Total budget EUR 39,690	Law on Amendments to the Criminal Code adopted	Positive opinion of the European Commission on the amendments; WEF global ranking of the Independence of the Judiciary (2011-2012 rank 4.2; Montenegro ranked 56 out of 142)
1.1.5.1.1.	Adopt Proposal for the Law on Amendments to the Criminal Code	Government	May 2013	Provided budgetary funds EUR 24, 690	Proposal for a Law adopted	
1.1.5.1.2.	Adopt the Law on Amendments to the Criminal Code	Parliament	July 2013	Provided budgetary funds EUR 15,000	Law adopted	
1.1.5.1.3.	Initiate criminal prosecution and conduct criminal proceedings for the criminal offence of illicit influence on judges and public prosecutors	Public prosecution offices and courts	September 2013 and continuously	Budget	Criminal proceedings conducted in accordance with the Law	Number of conducted criminal proceedings for the criminal offence of illicit influence on judges or public prosecutors; Criminal sanctions imposed
1.1.5.2.	Monitor adherence to the Law on Courts as regards application of the provisions on withdrawal of the allocated cases from a judge by the president of the hierarchically higher-instance court with the support of PRIS	Presidents of the courts, Judicial Council	March 2014 and continuously	Regular budgetary funds EUR 810	Reports on the work of courts	Number of withdrawn cases; Number of lodged and accepted appeals against decision on the withdrawal of the allocated cases; Number of responsibility procedures initiated against the presidents of the courts who do not adhere to the Law as

						regards withdrawal of the allocated case from judges
1.1.5.3.	Conduct an analysis of issued working instructions and withdrawn allocated cases, and subsequently propose measures for improvement of rules for withdrawal of allocated cases as well as amendments to the existing mandatory working instructions in order to strengthen the independence of deputy public prosecutors	Ministry of Justice, Supreme Public Prosecutor's Office, Prosecutorial Council	June 2014	Regular budgetary funds EUR 5,130	Analysis made on issued mandatory working instructions and withdrawn cases	
1.1.5.4.	Organise seminars for strengthening the integrity of members of the Judicial and Prosecutorial Councils for judges, presidents of courts and public prosecutors and their deputies based on the integrity programmes containing issues of corruption, protection of image, conflict of interest	Judicial Training Centre, Association of Judges, Association of Public Prosecutors, NGO	First quarter at the annual level, Continuously	Regular budgetary funds EUR 4,500 Financial support of the Government of the Great Britain (UNDP) EUR 14,000	Seminar organised in accordance with the Annual Training Programme	Number of organised seminars, forums, TV debates; Number of participants; Analysis made as regards impact of the knowledge acquired in the seminars, based on the polls taken after the seminars
1.1.5.5.	Make an analysis of the legislative framework and effects of its application regarding the independence of the judiciary, with recommendations for improvement of the judiciary independence system	Ministry of Justice, Judicial Council, Prosecutorial Council	Fourth quarter of 2017	Budget TAIEX	Analysis made	European Commission's Progress Report
1.1.5.6.	Carry out a survey among citizens on the independence of judges as well as an anonymous survey among judges	NGO, Association of Judges	2013, 2014 and continuously	Annual budget of the Association of Judges 1,000 EUR NGO Civic Alliance 5,000 EUR	Surveys on selected samples carried out	Results of the surveys

## 1.2. STRENGTHENING IMPARTIALITY IN JUDICIARY

### INTRODUCTION

The Constitution of Montenegro prescribes that everyone is entitled to fair and public trial within a reasonable time before an independent and impartial court established by law, and that the court shall rule on the grounds of the Constitution, laws and ratified and published international treaties. The Constitution also comprises the principle of publicity of judicial proceedings, permanency of judicial office, functional immunity, and incompatibility of judicial and prosecutorial offices with the duties of the Members of Parliament and other public offices, as well as performance of other professional activities.

Within its fundamental principles, the Law on Courts prescribes that judicial office must not be performed under anybody's influence, and that nobody will influence a judge in performing judicial office; everyone has the right to have his/her legal matter heard by a randomly selected judge, regardless of the capacity of parties to the case and nature of the case. The principle of random allocation of cases is developed within the Law on Courts, in the manner that the case is allocated to a judge according to agenda for submission of applications for initiating judicial procedures, and in accordance with alphabetical order of initial letters of judge's surnames. The cases of removal from the allocated case have been strictly defined as well, namely, only if it has been found that a judge has not been making any progress in the case, or if a judge has been unable to perform judicial duties pertaining to his/her post for more than three months. The accountability of the President of the Court has been prescribed if the cases are allocated contrary to law. The method of random allocation of cases has been regulated in details by the Court Rules, and it is applied through electronic allocation of cases through judicial information system.

The Law on Public Prosecution Office prescribes, within impartiality and objectivity principles, that the office of public prosecutor is exercised in the public interest in order to provide the application of law, while ensuring respect for and protection of human rights and freedoms, and that the office of public prosecutor must be exercised in an impartial and objective manner; the public prosecutors must abide by the Code of Ethics for prosecutors, which is adopted by the Prosecutorial Council. The Law prescribes the allocation of cases in such manner as to ensure impartiality, independency and efficiency in performance of duties. Random allocation of cases in the work of public prosecutors is implemented in a way that continuous duty hours and/or standby hours of basic and high public prosecutors are organised to coordinate pre-trial criminal proceedings, and ensure participation in procedural actions and other pre-trial criminal proceeding tasks, as well as other necessary actions.

As regards a important guarantee for impartiality of judicial and prosecutorial authorities, the Criminal Procedure Code and the Law on Civil Procedure prescribe reasons for exemption of judge or lay judge, that mostly refer to: conflict of interest, or that a judge is not a victim of criminal offence, then there are reasons including martial, kinship and other relations between judge and parties, previous participation of the judge in that case, as well as existence of circumstances giving reasons for doubt in impartiality. Apart from previously mentioned detailed reasons for exemption, procedure for exemption is regulated by procedural laws. Procedures on exemption of a judge and public prosecutor are being implemented.

The financial position of judges and prosecutors has been significantly improved by the Law on Salaries and Other Income of Judges and Prosecutors and Constitutional Court Judges, which has been applied since 2007.

The Law on Prevention of Conflict of Interest prescribes the obligation of judges and public prosecutors to submit the report on income and property to the Commission for Prevention of Conflict of Interest within 15 days from the day of appointment, as well as report on income and property of a spouse and children if they live in the same household, which reflects financial situation on the day of election, nomination or appointment. While performing public office, judges and prosecutors submit reports once a year, until the end of February of the current year for the previous year, and in case of change of data stated in the report regarding increase of assets to more than EUR 5,000 within 15 days from the date of change.

In July 2008, the Conference of Judges adopted the Code of Judicial Ethics. The Code prescribes that a judge must not take any gifts or free services from parties and other participants of the procedure, as well as other persons, who may raise suspicion on judge's independency and objectivity. A judge must not allow members of his/her family who are employed in the court or any other person who is subject to the authority of judicial office to take gift, loan or service for activity which was meant to be performed or has been performed by a judge within his/her judicial office.

The Commission for Monitoring Implementation of the Code of Judicial Ethics was formed on 1 October 2011. The Commission has the President and two members. The Commission for Code of Judicial Ethics may submit the proposal for determination of accountability of a judge and the President of the court due to harming of reputation of judicial office in cases prescribed by law. Persons authorised for initiating disciplinary procedure and/or a judge may address to the Commission and ask them to deliver opinion whether a judge acts in accordance with the Code of Judicial Ethics.

In 2006, the Prosecutorial Council ratified the Code of Ethics for Public Prosecutors and Deputy Public Prosecutors. The Commission for Monitoring the Code of Ethics for Prosecutors was established in the enlarged session of Supreme Public Prosecutor on 18 October 2011. The Commission for Monitoring the Code of Ethics for Prosecutors consists of the President and two members, who are appointed for the period of four years. The President is elected from among the members of Prosecutorial Council who are not public prosecutors; one member is elected in the enlarged session of Supreme Public Prosecutor's Office from among public prosecutors or their deputies, and the other member is the President of Association of Public Prosecutors of Montenegro.

However, apart from the above mentioned guarantees, there is a need for promotion of guarantees of impartiality of judges and public prosecutors, especially regarding provision of rights to competent judge in courts with limited number of judges, as well as monitoring implementation of provisions of law regarding exemption. Furthermore, significant areas for promotion are monitoring of conflict of interest in Judiciary and compliance with the Code of Ethics, which should be established at the level of the Commission for monitoring code of ethics, due to the fact that the Law on Courts and the Law on Public Prosecution Office, as a basis for disciplinary responsibility, prescribe that judges, presidents of courts, public prosecutors and their deputies insult the function reputation if they accept gifts or do not submit asset declarations in line with regulations which provide for prevention of conflict of interest. Measures have been proposed for removal of the above mentioned shortcomings.

**1.2. IMPARTIALITY IN JUDICIARY**

No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
<b>1.2.1. Recommendation: Improve the system of random allocation of cases, possibly also through streamlining the court network.</b>						
1.2.1.1.	Introduce random allocation of cases in all courts through PRIS in line with the valid regulations	Judicial Council's Secretariat, presidents of	June 2013	Regular budgetary funds EUR 810	Cases allocated through PRIS	Reports made by the officers authorised for supervision over the court



		courts, Ministry of Justice				administration; Number of courts in which cases are allocated through PRIS
1.2.1.2.	In basic courts with three judges, enable random allocation of cases through PRIS by the annual schedule of tasks	Judicial Council's Secretariat, presidents of basic courts	December 2013	No funds required	Annual schedules of tasks adopted in courts of up to three judges	Courts of up to three judges in which random allocation of cases is applied
1.2.1.3.	Improve the system of random allocation of cases in courts with a small number of judges by passing decision on the minimum number of judges that a court should have in order to be organised as an independent court in accordance with the procedural laws, and ensure random allocation of cases and decision-making in courts in line with the Criminal Procedure Code (arbitration council, investigative judge and the rules of exemption) and the Law on Civil Procedure	Ministry of Justice, Judicial Council	2015- 2017	Budget	Plan for the reorganisation of courts adopted  Amendments to the Law on Courts adopted	Reports made by the officers authorised for supervision over the court administration
1.2.1.3.1	Make analysis of the rationalisation of courts, with special focus on the lowest number of judges that a court should have in order to be functional and to apply the system of random allocation of cases (reference activity 1.4.2.3)	Ministry of Justice, Government	Fourth quarter of 2015	Budget	Analysis adopted	
1.2.1.3.2	See activities under items 1.4.2.4 and 1.4.2.5)	Ministry of Justice,	Fourth quarter of	Budget		

			Government, Judicial Council	2016			
	1.2.1.3.3	Apply the method of random allocation of cases in all the courts regardless of their size	All courts	2017 and continuously	Budget	All the cases allocated through PRIS	Reports made by the officers authorised for supervision over the court administration
<b>1.2.2. Recommendation: Review application of disqualification procedures and amend where necessary.</b>							
1.2.2.1	Make an analysis of the submitted requests for exemption and of decisions made upon the submitted requests at the annual level, and amend the rules of exemption should the results of the analysis indicate so, in order to improve this institute as an important mechanism for strengthening the impartiality of judges and public prosecutors	Supreme Court, Judicial Council, Supreme Public Prosecutor's Office, Prosecutorial Council, Ministry of Justice		December 2014	Regular budgetary funds EUR 5,130	Analysis made	Number of cases in which the request for the exemption of a judge or public prosecutor was accepted
<b>1.2.3. Recommendation: Amend "conflict of interest" rules, ensuring that there is an effective monitoring of asset declarations and cross-checking with other relevant information.</b>							
1.2.3.1.	Ensure that presidents of courts, judges, public prosecutors and deputy public prosecutors declare their assets in accordance with the Law on Prevention of Conflict of Interest (see activity 2.1.2.3, 2.1.2.4 and 2.1.2.5)	Commission for Prevention of Conflict of Interest		Continuously	No funds required	Reports of the Commission	Number of cases in which irregularities were established; Number of misdemeanour proceedings initiated against judges and public prosecutors for violating the Law on Prevention of Conflict of Interest prior and afterwards the establishment of this mechanism; Number of disciplinary

						proceedings conducted by the Judicial and Prosecutorial Councils due to failure to declare assets
<b>1.2.4. Recommendation: Ensure effective monitoring of compliance with the code of ethics.</b>						
1.2.4.1	Make amendments to the Code of Ethics of Judges in accordance with the Opinions of the Consultative Council of European Judges and Bangalore Principles of Judicial Conduct and the Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on independence, efficiency and accountability in judiciary	Conference of Judges Judicial Council	March 2014	Regular budgetary funds EUR 5,130 Support by the Association of Judges	Code of Ethics adopted; Brochure made and distributed to all judges	Continuous trainings
1.2.4.2.	Amend the Code of Ethics of Public Prosecutors in accordance with the opinion of the Consultative Council of European Prosecutors and the European Guidelines on Ethics and Conduct for Public Prosecutors (Budapest Guidelines) adopted by the Conference of Prosecutors General of Europe on 31 May 2005	Prosecutorial Council	March 2014	Regular budgetary funds EUR 5,130 Support by the Association of Public Prosecutors	Code of Ethics adopted; Brochure made and distributed to all public prosecutors	Continuous trainings
1.2.4.3.	Conduct trainings on compliance with the Codes of Ethics of Judges and Public Prosecutors	Judicial Training Centre, Association of Judges, Association of Public Prosecutors	Continuously	Budget, Financial support of international organisations (UNDP, OSCE) in the amount of EUR 7,000 per training for 20 participants	Trainings conducted twice a year	Number of trainings; Number of participants; Evolution of number of violations of the Codes of Ethics through comparison of number of violations of the Code of Ethics recorded in 2013 and 2014 and number of

						violations in 2015 and 2016.
1.2.4.4.	Ensure that the Commissions for Monitoring Compliance with the Codes of Ethics of Judges and Public Prosecutors submit semi-annual reports on compliance with the Codes of Ethics to the Judicial and the Prosecutorial Councils	Commissions for Monitoring Compliance with the Codes of Ethics of Judges and Public Prosecutors	Continuously	Regular budgetary funds EUR 729	Reports submitted to the Judicial and Prosecutorial Councils	Evolution of number of violations of the Codes of Ethics through comparison of number of violations of the Code of Ethics recorded in 2013 and 2014 and number of violations in 2015 and 2016. Number of violations of the Code of Ethics; Imposed disciplinary sanctions
1.2.4.5.	Make annual analysis of compliance with the Codes of Ethics based on the reports submitted by the Commissions for Monitoring Compliance with the Codes of Ethics of Judges and Public Prosecutors, with particular focus on adherence to the rules on conflict of interest by judges and public prosecutors	Judicial Council, Prosecutorial Council	September 2014 and continuously	Regular budgetary funds EUR 729	Analysis made	Results of the analysis
1.2.4.6.	Raise public awareness on the mechanisms for control of work of judges and public prosecutors in terms of compliance with ethical rules, and publish notices on websites of Judicial and Prosecutorial Councils on how citizens can address the Commissions for Monitoring Compliance with the Codes of Ethics and report disrespect of	Association of Judges  Association of Public Prosecutors  NGO	November 2013 and continuously	No funds required	Brochures made; Citizens polls conducted; Notice published on websites of Judicial and Prosecutorial	Research conducted by Association of Judges, Association of Public Prosecutors, NGO CEMI and NGO Civic Alliance on adherence to the codes of ethics of judges and public prosecutors

	the codes of ethics by judges and public prosecutors				Councils	
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### 1.3. ACCOUNTABILITY IN THE JUDICIARY

#### INTRODUCTION

Accountability in the judiciary is regulated by the Constitution, Law on Judicial Council, Law on Courts and Law on Public Prosecution Office, making clear difference between the disciplinary procedure and the dismissal procedure. The procedure for determining disciplinary responsibility of judges is conducted by the Disciplinary Commission, appointed by the Judicial Council for the period of two years. President of the Disciplinary Commission is appointed from among members of the Judicial Council who are not judges, and two members from among judges who are not members of the Judicial Council but have at least 15 years of work experience. Disciplinary measures imposable to judges and presidents of courts are reprimand and salary reduction.

The salary could be reduced up to 20% for the period of six months. A judge or a court president to whom a disciplinary measure of salary reduction is imposed could not be promoted to a higher-instance court within the period of two years as of the day when the decision on disciplinary measure becomes enforceable.

A judge is held disciplinary responsible if he/she seriously misconducts or impedes the judicial office, as prescribed by the law. A court president is held disciplinary responsible if he/she seriously misconducts or impedes the office of the court president.

A judge is relieved of office if he/she: has been sentenced for an offence making him/her unfit for judicial office, exercises judicial office in an unprofessional or negligent manner or loses permanently the ability to exercise judicial office (Article 121 of the Constitution). A judge may be suspended from office if an order was issued against him/her to be detained on remand or if he/she is subject to an investigation for a criminal offence that makes him/her unfit to exercise his/her office. A judge may be suspended from office after the Judicial Council accepts a proposal for initiation of dismissal procedure. Decision on suspension of a judge from office is passed by the Judicial Council. Proposal for dismissal of a judge can be submitted by president of the court in which the concerned judge works, by president of the higher-instance court, by president of the Supreme Court, by Minister of Justice as well as by other members of the Judicial Council.

Proposal for dismissal is submitted to the Judicial Council. The Judicial Council decides whether there are grounds for launching dismissal procedure within 30 days as of the day of receipt of the proposal. The Judicial Council delivers the same proposal to the judge it concerns, along with a notification that he/she has the right to defence counsel. The judge has the right to declare on the proposal for his/her dismissal within eight days as of the day of receipt of the proposal. The Disciplinary Commission gathers all necessary information and evidence for examining the rationale of the proposal. A judge being subject to dismissal procedure has the right to attend the Commission's sessions. Following the gathered information and evidence, the Disciplinary Commission submits a report to the Judicial Council within the deadline defined by the Council itself. A copy of that report is also submitted to the judge being subject to dismissal procedure. Decision upon the proposal for dismissal must be justified and contain a legal remedy. An administrative procedure can be launched against the decision. Administrative procedure can be launched before the Administrative Court against decisions on disciplinary responsibility, dismissal and suspension of judges. Since 2008, 13 disciplinary procedures have been conducted; two reprimands and four salary reductions were imposed; four

proposals were rejected; disciplinary procedure was suspended in three cases. Disciplinary procedure for public prosecutors is regulated in the same manner. As regards prosecutors, disciplinary procedure is conducted by the Parliament at the proposal of the Prosecutorial Council, whereas disciplinary procedures for deputy prosecutors are conducted by the Prosecutorial Council. Two disciplinary procedures are conducted in the public prosecution office, ending with imposition of disciplinary measure to deputy public prosecutors - salary reduction.

As explained above, the accountability system for judges and prosecutors is divided into a disciplinary procedure and a dismissal procedure. Disciplinary procedures can result in very mild disciplinary sanctions and therefore do not have dissuasive effect. As regards dismissal procedure, grounds for dismissal are not clearly defined. Since 2008, five judges have been dismissed, whereas disciplinary sanctions have been imposed to others. The disciplinary system should be additionally strengthened and separated in accordance with the principle of proportionality. Double role of the Disciplinary Commission in examining and deciding upon disciplinary responsibility should be revised in the light of the principle of fair trial. Bearing in mind the aforementioned, measures have been proposed for improvement of accountability in the judiciary.

### 1.3. ACCOUNTABILITY IN THE JUDICIARY

#### 1.3.1. Recommendation: Review rules on disciplinary and dismissal procedures and their implementation and amend where necessary.

No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
1.3.1.1	Amend the Constitution in terms of prescribing reasons for dismissal of judges in accordance with the opinion of the Venice Commission	Parliament	July 2013	Budget allocated	Amendments to the Constitution adopted The Constitutional Law Implementing the amendments to the Constitution adopted Positive opinion of the European Commission	
1.3.1.2	In accordance with amendments to the Constitution, amend the Law on the Judicial Council, the Law on Courts and the Law on Public Prosecution Office so that the following will be entirely regulated by the law: - competence for conducting disciplinary procedures and dismissal	Ministry of Justice Government Parliament	September 2013- October 2014	Budget (allocated within activities 1.1.2.1, 1.1.2.2 and 1.1.2.3)	The Law on the Judicial Council adopted, the Law on Courts adopted, the Law on Public Prosecution Office adopted	Positive opinion of the European Commission (Progress Report) Report of expert mission

	procedures, - the role of the Disciplinary Commission, and - introducing the principle of proportionality between the disciplinary offence and the disciplinary sanction					
1.3.1.2.1	Conduct expertise of the disciplinary accountability model	Ministry of Justice	October 2013	Expert support TAIEX	Expertise conducted by an independent expert hired with support of TAIEX	
1.3.1.2.2.	Prepare a working version of the Law on Judicial Council, Law on Courts, and the Law on Public Prosecution Office	Ministry of Justice	February 2014	Budget Expert support TAIEX	Prepared a working version of the Law on Judicial Council, Law on Courts, and the Law on Public Prosecution Office	
1.3.1.2.3.	Prepare the draft law and organise public discussion	Ministry of Justice	April – May 2014	Budget	Public discussion organised Public discussion programme	
1.3.1.2.4.	Obtain opinion of the European Commission	Ministry of Justice	June 2014	Expert support TAIEX	European Commission's experts' opinion	
1.3.1.2.5.	Prepare the Proposal for a Law on Judicial Council, Law on Courts, and the Law on Public Prosecution Office	Government	September 2014	Budget	Adopted proposal for a law	
1.3.1.2.6.	Adopt the Law on Judicial Council, Law on Courts, and the Law on Public Prosecution Office	Parliament	October 2014	Budget	Law adopted	
1.3.1.3.	In accordance with legislative changes,	Judicial	First quarter	No budgetary	Disciplinary	Reports on work of the

	establish disciplinary commissions within the Judicial and Prosecutorial Councils respectively	Council Prosecutorial Council	of 2015	expenses	commissions appointed by the Judicial and Prosecutorial Councils respectively	disciplinary commissions within the Report of Judicial Council and Report of Prosecutorial Council
1.3.1.4	Establish databases on procedures conducted regarding the accountability of judges and public prosecutors	Judicial Council Prosecutorial Council	January 2014	Regular budgetary funds EUR 729	Databases established	All the data entered in the databases
<b>1.3.2. Recommendation: Review the system of functional immunity for judges and prosecutors. Procedures for removing functional immunity need to be strengthened to ensure full accountability of judges and prosecutors under criminal law.</b>						
No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
1.3.2.1.	Clarify sub-constitutional provisions on functional immunity and ensure effective implementation in practice in accordance with the constitutional definition of the functional immunity of judges and public prosecutors with a view to ensuring full accountability of judges and public prosecutors for committed criminal offences, in particular criminal offences against official duty thorough amendments to the law on Judicial Council and the Law on Prosecutorial Council and the Law on Public Prosecution (See activities 1.1.1.2 and 1.1.1.4) in line with the best European practice.	Ministry of Justice Government Parliament	September 2013 to October 2014	Budget (the amount presented in the activities 1.1.1.2 and 1.1.1.4) IPA 2012 2013 EU RoL	The Law on the Judicial Council adopted The Law on Public Prosecution Office adopted	Positive opinion of the European Commission  Report of expert mission of European Commission



1.3.2.2.	Conduct procedures regarding the accountability of judges and public prosecutors, in accordance with the law	Judicial Council Prosecutorial Council	Continuously	Regular budgetary funds EUR 810	Annual reports on work of the Judicial / Prosecutorial Council	Report by Judicial Council and Prosecutorial Council on imposed disciplinary measures and the number of dismissed judges / public prosecutors
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#### 1.4. PROFESSIONALISM, COMPETENCE AND EFFICIENCY IN THE JUDICIARY

##### INTRODUCTION

The Court Rules regulate issues of reporting, records keeping and statistics. Periodical and temporary overviews of work in courts are done on the basis of records and statistics with a view to exercising supervision and better organizing the work in courts. Courts keep records and statistics in accordance with the guidelines of president of the Supreme Court and administrative body competent for statistical issues. Statistical templates represent an integral part of the guidelines of president of the Supreme Court.

When collecting statistics on efficiency of courts, total number of resolved cases and number of resolved cases per judge are taken into account. Time that each judge passed in his/her workplace during a year and the number of cases that he/she should resolve in that period is also taken into account. As regards unresolved cases in which decision of the court has been abolished, data on the year in which the procedure was initiated is separately presented when preparing the annual report on operation of courts.

Apart from the standard data, annual reports should demonstrate and analyse operation of courts, point out problems and shortcomings in their work, measures being taken or planned to be taken with a view to achieving required work efficiency as well as the amount of funds paid in accordance with the Law governing free legal aid.

The Rulebook on Internal Operation in Public Prosecution Offices regulates records keeping, reporting and statistics. Data in the public prosecution offices are kept and processed in the same manner as in courts.

The Judicial Information System (PRIS), as system for collection of information on a case as of the moment of its receipt in the court's registry office till the end of court proceedings, can provide information on cases being processed (date of receipt, course of proceedings and actions taken therein, duration of proceedings, type and contents of ruling, taken legal remedies, outcome of those remedies). PRIS ensures electronic processing of data in all judicial institutions, courts, public prosecution offices, prison and the Ministry of Justice.

The Judicial Training Centre is organised as a separate organisational unit of the Supreme Court of Montenegro. The Law on Training in Judicial Authorities stipulates that funds for financing of trainings are provided as a separate line in the budget of the Supreme Court of Montenegro as well as through donations, gifts, and other sources. Making the Centre an organisational unit of the Supreme Court, funds should be provided through special budget line intended for the Supreme Court. However, due to lack of funds for continuous training in the budget of the Supreme Court of Montenegro and bearing in mind the overall financial situation in Montenegro, for years the Centre has been organizing continuous training through cooperation with and support of

international organisations that have recognised the importance of the Centre and its work. Still, there is a risk that the Centre could not be able to take planned activities should the international organisations withdraw their financial support.

The Centre is managed by an executive director. The executive director is appointed by the president of the Supreme Court, upon the opinion of the Supreme Public Prosecutor, in the procedure prescribed for employment of civil servants and state employees. Special bodies are organised within the Centre with the task to organise and implement trainings in judicial authorities: Coordination Board, programme boards and Examination Commission. Administrative, technical and other activities for the needs of the Coordination Board, programme boards and the Examination Commission are performed by the Centre, which has not only the executive director but three employees also: advisor for initial training, advisor for continuous training and technical secretary. The Coordination Board has a president and six members appointed by all relevant institutions in the area of justice (Supreme Court of Montenegro, Supreme Public Prosecutor of Montenegro, Judicial Council, Prosecutorial Council, Ministry of Justice, and Faculty of Law in Podgorica). It represents the body with the most important authorisations that adopts annual training programme (areas in which training will be organised, dynamics and deadlines for organisation of trainings, structure and number of attendants, structure of lecturers, required funds and method for programme evaluation) and appoints members of programme boards and the Examination Commission. The Coordination Board is responsible to the Judicial and Prosecutorial Councils for its work. Programme boards for initial and continuous training have three members each (they elaborate annual programme and special training programmes, and adopt plan for their implementation). The Examination Commission, which has three members, organises sitting for admission and final exams for initial training. Members of the Coordination Board cannot be members of programme boards and the Examination Commission.

The Law on Training in Judicial Authorities makes clear difference between continuous and initial trainings of judicial staff, based on special training programmes. Continuous training programmes are equally available to all judges and prosecutors, both to the newly appointed and others. Initial training programmes are intended for associates in judicial bodies (courts and prosecution offices) as well as for graduates in law meeting the general conditions for work in public authorities and having passed the bar exam, and those programmes are aimed at preparing them for exercising judicial office.

The Law leaves the possibility of designing special curricula for judges and prosecutors who have been exercising judicial office for less than 3 years, but such curricula have not been designed thus far due to lack of financial resources for their implementation.

A judge exercise judicial office in the court that he/she has been appointed to. With a judge's consent, the Judicial Council can second him/her to another court of the same or lower instance for one year, if regular operation of the court that the judge is seconded to is hampered by exemption or impediment of a judge in exercising judicial office or on other justified grounds. The Judicial Council may temporarily second a judge, with his/her consent, to a court of higher instance, if the scope of work in that court has increased temporarily or in the case of a large backlog of cases which cannot be resolved by the existing judges. The seconded judge must meet conditions prescribed for appointment of judges to that particular court. The Judicial Council passes the decision on temporary secondment of a judge to another court at the request of president of the court that the judge is seconded to. Prior to passing the decision on temporary secondment of a judge to another court, the Judicial Council holds consultations with the president of the court that has submitted the request, with the judge being seconded and with the president of the court that the judge is currently working in.

With his/her consent, the Judicial Council can second a judge to the Ministry of Justice, to the Judicial training Centre or to the Judicial Council Secretariat for a period of up to three years for the purpose of taking part in activities of those bodies concerning improvement of courts' operation, particularly with regard to introduction of international standards in courts. During the work in those bodies, the judge does not exercise judicial office. The judge keeps

his/her salary, whereas the costs caused by secondment are borne by the body that he/she is seconded to. The same rules apply to secondment of deputy public prosecutors. In case of reorganisation of courts implying reduction or abolishment of a number of positions of judges, the Judicial Council can second or transfer a judge to another court without his/her consent. Costs caused by secondment or transfer of the judge to another court without his/her consent are borne by the court that the judge is seconded or transferred to, with exception of the salary that the judge receives in the court in which he/she worked prior to secondment or transfer.

<b>1.4. PROFESSIONALISM, COMPETENCE AND EFFICIENCY IN THE JUDICIARY</b>							
<b>No.</b>	<b>Measure / Activity</b>		<b>Responsible authority</b>	<b>Deadline</b>	<b>Required funds / Source of financing</b>	<b>Indicator of result</b>	<b>Indicator of impact</b>
<b>1.4.1 Recommendation: Ensure reliable and consistent judicial statistics and introduce a system to monitor the length of trial.</b>							
1.4.1.1.	Setting up reliable and consistent judicial statistics according to CEPEJ guidelines on judicial statistics		Ministry of Justice Judicial Council	September 2013 to second quarter of 2015	Regular budgetary funds EUR 220,000	Reliable and consistent judicial statistics established in accordance with CEPEJ guidelines.	CEPEJ Report Data obtained through PRIS are Reliable and consistent
	1.4.1.1.1	Drafting a regulation about procedures, methodologies and timeframes for the collection of statistical figures in compliance with CEPEJ guidelines by the working group composed of representatives from the	Ministry of Justice Judicial Council	September 2013 until March 2014	Budget	Working group established  Draft regulation prepared	

		Ministry of Justice and Judicial Council					
	1.4.1.1.2	Public discussion on the Draft regulation	Ministry of Justice Judicial Council	April - May 2014	Budget	Public discussion organised	
	1.4.1.1.3	Adoption of regulation on collecting statistical data	Ministry of Justice Judicial Council	July 2014	Budget	Regulation adopted	
	1.4.1.1.4	PRIS upgraded for statistical reporting in accordance with the regulation	Secretariat of the Judicial Council	September - December 2014	Additional budgetary funds required	PRIS upgraded	
	1.4.1.1.5	Testing of a new statistical system	Secretariat of the Judicial Council	First quarter of 2015	Budget	New statistical system tested	
	1.4.1.1.6	Updating of Regulations by the Ministry of Justice and the Judicial Council	Ministry of Justice Judicial Council	Second quarter of 2015	Budget	Regulations updated	Statistical data are obtained by the usage of PRIS
1.4.1.2		Development of indicators for measuring productivity of judges, average time spent on resolving particular cases, old cases, backlog, cost of proceedings	Ministry of Justice Judicial Council	September 2013 - Fourth quarter of 2015	Budget IPA 2012- 2013 (EU ROL)	Guidelines adopted Statistical indicators established	Results of measurements of productivity  Results of the average time spent on resolving each type of case
	1.4.1.2.1	Set up a working group composed by representatives of the Ministry of Justice (2) and Judicial Council (2), 2 civil judges, 2 criminal judges, 2 prosecutors, 1 statistician, 1 IT engineer	Judicial Council	September 2013- March 2014	Budget EUR 11,930	Working group established	

		with the aim of identifying the relevant indicators					
	1.4.1.2.2	Organise public discussion on indicators identified	Judicial Council	April - May 2014	Budget EUR 3,810	Public discussion organised	
	1.4.1.2.3	Adoption of Regulations establishing the relevant indicators by the Ministry of Justice and the Judicial Council	Ministry of Justice Judicial Council	July 2014	Budget EUR 5,130	Regulations adopted	
	1.4.1.2.4	Upgrading of the PRIS for statistical reporting in accordance with the established indicators	Secretariat Judicial Council	September 2014 - March 2015	Budget Additional budgetary funds required IPA 2012- 2013 (EU RoL)	PRIS upgraded and functional	
	1.4.1.2.5	Testing new statistical indicators	Judicial Council	March 2014- March 2015	Budget IPA 2012- 2013 (EU RoL)	Forms completed by judges	
	1.4.1.2.6	Updating of Regulations and PRIS after the testing	Judicial Council	Third quarter of 2015	Budget IPA 2012-13 (EU RoL)	Data obtained and analysed	
1.4.1.3	Establishment of standards for the workload of judges and of standard timeframes for proceedings for specific types of cases and/or specific courts		Judicial Council	September 2013 - Second quarter of 2016	Budget	Standards of performances according to different types of proceedings and standards about the time needed for finalizing different types of cases established	On this basis allocation of resources so as to ensure efficient functioning of the judicial system and resolution of the incoming workload as well as backlogs.
	1.4.1.3.1	Setting up two working	Judicial	September	Regular budgetary	Working groups	

	<p>groups as follows:</p> <p>1. The first one with the aim of drafting a proposal of standards of performance according to different types of proceedings, composed of representatives Ministry of Justice (2), Judicial Council (2), 2 civil judges, 1 labour judge, 1 enforcement judge, 1 bankruptcy judge, 1 administrative judge, 1 commercial judge. 2 criminal judges, 1 appellate judge, 1 high court judge, 2 prosecutors.</p> <p>2. The second one with the aim of drafting a first proposal of standards of the time needed for finalizing different types of cases, consisted of representatives of the Ministry of Justice (2) and Judicial Council (2), 2 civil judges, 1 labour judge, 1 enforcement judge, 1 bankruptcy</p>	Council	2013 - June 2014	funds EUR 11,930	established  Standards of performances adopted	
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		judge, 1 administrative judge, 1 commercial judge. 1 appellate judge, 1 high court judge, 2 criminal judges, 2 prosecutors.					
	1.4.1.3.2	Organise public discussion on the draft standards prepared by the two working groups	Ministry of Justice Judicial Council	July - September 2014	Budget EUR 3,810	Public discussion organised	
	1.4.1.3.3	Prepare and adopt finalised version of standards by the two working groups, and upgrade PRIS to use standards	Judicial Council	September 2014	Regular budgetary funds EUR 11,930	Finalised version of standards done	
	1.4.1.3.4	Test the system in six pilot courts: appellate, administrative, one commercial, one high court, two municipal courts	Judicial Council	Second quarter of 2015	Budget EUR 810	Testing successfully conducted in six pilot courts	
	1.4.1.3.5	Update system and PRIS in accordance with the results of the testing	Judicial Council	Fourth quarter of 2015	Budget EUR 3,810	System and PRIS updated and adjusted	
	1.4.1.3.6	Present the system to the stakeholders on a public discussion	Judicial Council	First quarter of 2016	Budget	Public discussion organised	
	1.4.1.3.7	Establish the system	Judicial Council	Second quarter of 2016	Budget	System functional	
1.4.1.4		Strengthen the administrative capacity necessary for the	Judicial Council	Continuously	Budget (see budgetary impact)	Budget resources and donor support	

	development and maintenance of PRIS in accordance with the adopted strategic documents of the development of ICT in the judiciary: - employ 3 officers in 2014 in the IT department of the Secretariat of the Judicial Council - Employ 6 officers in the 2015 in the IT department of the Secretariat of the Judicial Council	Government		under activity 1.1.3.3.1)  IPA 2012- 2013 (EU ROL)	Provided The analysis of the existing staff done Increased number of staff on the position of developing and maintain PRIS Determined the level of satisfaction with the PRIS on the based on customer surveys Training of employees	
<b>1.4.2. Recommendation: Review and rationalise the court network and ensure sufficient funding for the efficient functioning of the entire court system. Further reduce the existing backlog, especially as regards civil cases.</b>						
No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
1.4.2.1.	Adopting a two-year plan for rationalisation of the judicial network in accordance with conclusions of the Analysis on the need for rationalizing the judicial network, which was adopted in 2013	Ministry of Justice, Government, Judicial Council	June 2013	Budget total EUR 662,013.16 Regular budgetary funds EUR 503,237.66 Additional budgetary funds required EUR 158,775.50	Reorganisation plan adopted in accordance with the 2013 Analysis CEPEJ report	
1.4.2.2.	Implementing measures under the two-year plan of rationalisation of judicial network	Ministry of Justice Judicial Council Prosecutorial Council	2013-2015	Budget	All measures under the two-year rationalisation plan have been implemented	
1.4.2.2.1	Adopting necessary	Ministry of	December	Regular budgetary	Amendments to the	



		amendments to the legislation in line with the Rationalisation Plan	Justice Government Parliament	2014	funds EUR 135,525 (see budgetary impact under activity 1.1.2.1 and 1.1.2.3) + EUR 36,427	legislation provided for in the Rationalisation Plan have been adopted	
	1.4.2.2.2	Merging two commercial courts into one court which will be based in Podgorica	Secretariat of the Judicial Council Commercial Court in Podgorica	Fourth quarter of 2014	Regular budgetary funds EUR 3,793	One Commercial Court in Podgorica has been established	
	1.4.2.2.3	Merging two special divisions of high courts into one with a view to centralising jurisdiction for the criminal offences of organised crime, corruption, terrorism and war crimes at the special division in the High Court in Podgorica	Judicial Council High Court in Podgorica	Fourth quarter of 2014	Regular budgetary funds EUR 3,070	One special division has been formed in the High Court in Podgorica	Number of cases completed Length of proceedings
	1.4.2.2.4	Changes in the organisation of the Special division for combating organised crime, corruption, terrorism and war crimes at the Supreme Public Prosecutor's	Supreme Public Prosecutor's Office	First quarter of 2015	Total budget EUR 662,013.16 Regular budgetary funds EUR 503,237.66 Additional budgetary funds required	Organisation of the Special Prosecutor's Office changed	Number of cases Length of investigation Financial investigations

		Office			EUR 158,775.50		
	1.4.2.2.5	Delegating inheritance cases to notaries by the Basic Courts	Presidents of Basic Courts	January 2014	No budgetary costs	Notaries are acting in inheritance cases	
	1.4.2.2.6.	Establishing bailiffs (see activities under items. 1.4.3.1 and 1.4.3.2)	Ministry of Justice	January 2014	Budget (see budgetary impact under activity 1.4.3.1 and 1.4.3.2)	Bailiffs commenced working	Higher percentage of enforced judgments when compared to enforcements by courts
1.4.2.3	<p>Conducting analysis on the need for the rationalisation in accordance with the conclusions of the 2013 Analysis and the Plan of Rationalisation 2013-2015 on the basis of which:</p> <ul style="list-style-type: none"> <li>- criteria for determining the minimum necessary number of judges justifying the existence of a court will be identified,</li> <li>- decreasing of workload of the courts with regard to taking over of inheritance cases by notaries will be considered and the performance of bailiffs concerning taking over of enforcement cases from the courts will be monitored</li> </ul>		Ministry of Justice, Government	Fourth quarter of 2015	For realisation of this activity MNE will apply through IPA 2014-2020	Analysis adopted	
1.4.2.4	<p>Adopting a medium-term rationalisation plan (2017-2019) based on the Analysis (see activity 1.4.6) and identified indicators of productivity of courts and average time needed to resolve particular types of cases, based on which</p>		Ministry of Justice, Government, Judicial Council Prosecutorial Council	Fourth quarter of 2016	For realisation of this activity MNE will apply through IPA 2014-2020	The Plan adopted	

	human resources could be distributed to courts in accordance with annual workload and cases processed by a particular court in one year					
1.4.2.5	Implementation of measures under the Rationalisation Plan (see activity 1.4.7)	Ministry of Justice, Government, Judicial Council Prosecutorial Council	2017-2019	For realisation of this activity MNE will apply through IPA 2014-2020	Measures have been implemented in line with the Plan.	Number of positions of judges reduced when compared to 2014 Number of courts reduced when compared to 2014 Number of administrative staff reduced when compared to 2014
1.4.2.6	Monitoring backlog of cases within PRIS and adopting the rules and annual programmes for resolving backlog of cases at the level of all courts	Judicial Council Supreme Court and all courts Ministry of Justice	Continuously	IPA 2012 2013 EU ROL	Rules for resolving backlog of cases adopted Annual plans and programmes for resolving backlog of cases adopted The number of resolved backlog cases and the number of pending cases	The number of resolved backlog cases and the number of pending cases on an annual basis  Monitoring mechanism by the presidents of courts and hierarchically higher courts for solving the backlog of cases within the PRIS established
1.4.2.7	Taking measures for resolving backlog of cases such as: - voluntary secondment of judges who have less workload to a court having backlog of cases,	Judicial Council Supreme Court and all courts	Continuously	Regular budgetary funds for secondment of judges to another court	The measures are being taken.	Number of seconded judges Number of delegated cases Reports on resolving backlog of

	<ul style="list-style-type: none"> <li>- delegating cases,</li> <li>- improving and controlling the work of delivery and enforcement service</li> <li>- monitoring work through monthly submission of reports to the president of the court by judges concerning the resolving of cases,</li> <li>- submission of reports on the work of advisors in the court on a quarterly basis</li> <li>- alternative dispute resolution (mediation, court settlement, arbitration)</li> </ul>	Ministry of Justice		EUR 21,000		cases Number of cases resolved through alternative dispute resolution methods	
<b>1.4.3. Recommendation: Strengthen the enforcement of judgements in civil cases.</b>							
No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact	
1.4.3.1	Conduct an analysis of the bailiffs in relation to the judicial enforcement in terms of efficiency and costs of enforcement proceeding	Ministry of Justice	October 2013	Budget EUR 6,947	Analysis made.	Costs of proceeding enforcement realistic.	
1.4.3.2	Taking all measures and actions in accordance with the Law on Enforcement and Security of Claims and the Law on Bailiffs in order to make it possible for bailiffs to start operating and take enforcement cases from the jurisdiction of courts	Ministry of Justice	January 2014	Budget EUR 950	Secondary legislation adopted based on the law Bailiffs appointed	Reduced backlogs Reduced average length of proceedings Reduced workload of judges	
	1.4.3.1.1.	Adoption of tariff for work of bailiffs.	Ministry of Justice, Government	June 2013	Budget EUR 5,130	Tariff adopted.	Costs of enforcement realistic according to value of the case for enforcement.
	1.4.3.1.2.	Organizing training for	Ministry of	June 2013	OSCE	Organised training for	

		applicants for bailiffs.	Justice		EUR 4,500	32 applicants.	
	1.4.3.1.3.	Making decision on appointment of bailiffs (Rulebook provides for 32 posts).	Ministry of Justice	November 2013	Budget EUR 729	Decision made.	The bailiffs appointed in all municipalities.
	1.4.3.1.4.	Establishing fulfilment of necessary conditions for work (oath, offices)	Ministry of Justice, Public bailiffs	December 2013	Budget EUR 729	Commission receives offices.	Established fulfilment of conditions.
	1.4.3.1.5.	Initiation of work of bailiffs and establishment of chamber of bailiffs.	Bailiffs	January – February 2014	No budgetary costs	Public bailiffs started to work.	Number of proceedings for enforcement carried out by bailiffs.
1.4.3.3	Making an analysis of effective functioning of the enforcement system, including bailiffs' performance and impact of the reform on productivity of courts after commencement of operation of bailiffs		Ministry of Justice	Fourth quarter of 2015	Budget EUR 5,130	Analysis made	Evolution of recovery rate, costs, and duration of proceedings; backlog of cases
1.4.3.4	Upgrade PRIS so as to be able to measure the recovery rate, costs, and duration of enforcement proceedings.		Judicial Council Secretariat	Second quarter of 2014	Regular budget 7,290 EUR	PRIS upgraded	Evolution of recovery rate, costs, and duration of proceedings; backlog of cases
<b>1.4.4. Recommendation: Ensure effective functioning of the Judicial Training Centre.</b>							
<b>No.</b>	<b>Measure / Activity</b>		<b>Responsible authority</b>	<b>Deadline</b>	<b>Required funds / Source of financing</b>	<b>Indicator of result</b>	<b>Indicator of impact</b>
1.4.4.1.	Making an analysis of budget funds that the Centre needs for financing initial and continuous training,		Judicial Training Centre	fourth quarter of 2014	Budget EUR 2,430 Technical	Analysis made	

	including recommendations on the future model of organisation and functioning of the Training Centre			Assistance (EUR 10,000) Luxembourg/EIPA for Montenegro		
1.4.4.2	Organising continuous training with regard to implementation of the Criminal Procedure Code and the Law on Civil Procedure as well as with regard to the new institutes introduced by substantive laws (Law on Obligations, Law on Property Relations, Family Law, Criminal Code, Law on Enforcement and Security of Claims)	Judicial Training Centre	Continuously	Financial support by the USA Embassy and international organisations (OSCE , IRZ) cca. EUR 150,000	Training implemented in accordance with the Training Programme	Number of trainings Number of participants Satisfaction of participants Forms for evaluation of training
1.4.4.3	Ensuring budget funds necessary for financing continuous training	Supreme Court	2014 and 2015	Missing funds in Budget in 2014 EUR 80,000, and in 2015 EUR 100,000	Budget funds for financing continuous training provided partly from the Budget in addition to the international support	Number of continuous trainings implemented with the financial support from the Budget
1.4.4.4.	Amending the legislative framework which will be the basis for transforming the Judicial Training Centre into an independent and self-sustainable institution on the basis of the results of the analysis referred to under measure 1.4.13	Ministry of Justice, Government, Parliament	Second quarter of 2015	Budget, IPA 2012/2013 - Justice and Home Affairs	Law adopted	Positive opinion of the European Commission on the Law
1.4.4.4.1	Preparing preliminary draft of the Law on Training in Judiciary	Ministry of Justice, Judicial Training Centre	Second quarter of 2014	Regular budgetary funds EUR 11,930 IPA 2012/2013 - Justice and Home Affairs	Preliminary draft of the Law on Training in Judiciary prepared by the expert engaged	

	1.4.4.4.2	Forming a Working Group for drafting the Law on Training in Judiciary based on the preliminary draft referred to in 1.4.15.1.	Ministry of Justice, Judicial Training Centre, Judicial Council, Prosecutorial Council	Second quarter of 2014	Budget, IPA 2012/2013 - Justice and Home Affairs	Working Group formed	
	1.4.4.4.3	Obtaining opinion of the European Commission and of the Council of Europe on the Draft Law referred to in 1.4.15.2	Ministry of Justice	Fourth quarter of 2014	TAIEX EUR 2,700	Opinion of the experts of the European Commission Opinion of the experts of the Council of Europe	
	1.4.4.4.4	Adopting Proposal for a Law on Training in Judiciary	Government	Second quarter of 2015	Budget EUR 13,365	Proposal for a Law adopted	
	1.4.4.4.5	Adopting the Law on Training in Judiciary	Parliament	Third quarter of 2015	Budget EUR 15,000	The Law adopted	
1.4.4.5.		Transforming the Judicial Training Centre in accordance with the adopted Law on Training in Judiciary	Training Centre Judicial Council Prosecutorial Council Supreme Court	Fourth quarter of 2015	Budget	New organisational structure of the Training Centre established Budget funds necessary for financing training provided	
	1.4.4.5.1	Adopting the act on internal organisation of the Training Centre in accordance with the new Law	Judicial Training Centre	First quarter of 2016	Budget EUR 1,215	Act on internal organisation of the Centre for Training in Judiciary adopted	

	1.4.4.5.2	Ensuring budget funds necessary for the financing of the Centre and of initial and continuous training, premises and technical conditions and employ necessary number of officers	Judicial Training Centre Ministry of Finance Judicial Council Prosecutorial Council	First quarter of 2016 and continuously	Budget Cca EUR 700,000	Necessary budget funds, premises and technical conditions and employees ensured	
1.4.4.6.		Making an analysis of needs for employing trainees in courts and public prosecution service	Ministry of Justice, Judicial Council, Prosecutorial Council	First quarter of 2014	Budget EUR 4,860	Analysis made	
1.4.4.7		Adopting and monitoring the implementation of programmes of training of trainees in the courts and public prosecution service	Supreme Court Supreme Public Prosecutor's Office Centre for Training in Judiciary Human Resources Administration	Continuously	Regular budgetary funds EUR 9,720 (working group of 6 person effective work 2 months)	Rules adopted Reports by presidents of the courts on the implementation of training programmes	
1.4.4.8		organising trainings for employed advisers, administration	Human Resources Administration Supreme Court	Fourth quarter of 2014 and continuously	Budget EUR 44,550 (EUR 5,670 in 2013, EUR 9,720 in 2014,	Analysis made Training implemented Evaluation of participants in training	



		Supreme Public Prosecutor's Office		EUR 9,720 in 2015, EUR 9,720 in 2016, EUR 9,720 in 2017)		
1.4.4.9	Analysing and amending the legislative framework concerning the bar exam	Ministry of Justice	Fourth quarter of 2015	Budget EUR 17,820	Amendments to the Law adopted	
<b>1.4.5. Recommendation: Take incentive-based measures that would contribute to the voluntary mobility of judges and prosecutors.</b>						
No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
1.4.5.1.	Adopting incentive measures for voluntary temporary (until the new system of permanent transfer is in place) and permanent transfer of judges or state prosecutor deputies from one court/state prosecution office to another (salary bonus, resolving of housing needs, career incentives).	Judicial Council Prosecutorial Council Ministry of Finance	June 2013-December 2014	Regular budgetary funds for secondment of judges to another court EUR 21,000	Budget funds provided	Number of seconded judges Reports by Judicial Council on operation of courts to which judges have been seconded  Report by Prosecutorial Council on operation of state prosecution office to which state prosecution deputies have been seconded Number of resolved backlogs
1.4.5.2.	Following the amendments to the Law (see activity under 1.1.2 and 1.1.3), applying the system of permanent voluntary transfer of judges between the courts of the	Judicial Council	2015 and continuously	Budget	System of permanent transfer of judges established.	Number of judges transferred Effects on reducing the number of judges

same level					
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## 1.5 DOMESTIC HANDLING OF WAR CRIMES

After the consultations with the representatives of the European Commission in the meeting held on 13 June in Podgorica, it was suggested that measures addressing identified shortcomings in the domestic handling of war crimes should also be included into the Action Plan.

The Criminal Code, Criminal Procedure Code, Law on Protection of Witnesses, Law on Cooperation with the International Criminal Tribunal, Law on International Legal Aid in Criminal Matters and ratified international agreements related to war crimes to which Montenegro is a party, represent the legislative framework for the proceeding of the Montenegrin judicial bodies in war crime cases.

The Criminal Code contains a special part dedicated to criminal acts against humanity and other goods protected by the international law, namely: criminal act of genocide, crime against humanity, war crime against civilian population, war crime against wounded and sick persons, war crime against prisoners of war, organisation and incitement to commit genocide and war crimes.

Criminal Procedure Code regulates witness protection during the criminal proceeding so that protection can be given to any witness who would by giving testimony or answers to certain questions in all probability seriously jeopardise his/her personal safety, safety of his/her property or the safety of spouse or a close relative. Procedure for the application of the witness protection measure during the criminal procedure is initiated by the witness himself/herself or the public prosecutor by submitting explained proposal to the court in written form or orally by entering it in the minutes before the beginning of the investigation hearing or during the main hearing. The Code prescribes special ways of participation and questioning of the protected witness in criminal procedures, including: hearing of witnesses under pseudonym, hearing by using technical devices, (protection wall, voice changing devices, device for the transfer of sound and picture, etc.) Hearing of witnesses under pseudonym includes two ways of hiding identity of a protected witness: hiding only personal data which is accomplished by giving a pseudonym to the witness and using it during the procedure. Full concealment of witness's identity is accomplished by questioning the witness in a separate room and the hearing where the investigative judge and other persons participating in the hearing communicate with that witness by using technical device, whereas the figure and voice of the witness have to be unrecognisable. The Criminal Procedure Code is thus aligned with the Article 24 of the United Nations Convention against Transnational Organised Crime that Montenegro assumed through succession.

According to the Criminal Procedure Code and the Law on International Legal Aid, the hearing can also be performed via video conference with the countries Montenegro has signed agreements with, under the terms of reciprocity.

The protection of witnesses and persons close to them beyond the criminal procedure is provided according to the Law on Witness Protection. The protection of witnesses and their closest beyond the criminal procedure involves the application of police and other measures of personal and property safety (physical protection, moving, hiding identity and data on property and change of identity, defined in line with the Witness Protection Programme). Protection beyond the criminal procedure is provided only for those witnesses whose testimony is indispensable in proving certain criminal act (against Constitutional system, humanity and international law and any other involving the prison sentence of ten years or more) or if proving that crime in other way would be significantly harder. Witness protection beyond the criminal procedure is provided in line with the Witness Protection Programme. The

decision on application, suspension, termination or prolongation of application of the Protection Programme is adopted by the Commission for Application of Witness Protection Programme composed of: judges of the Supreme Court of Montenegro, Deputy Supreme Public Prosecutor and Head of the Unit for Protection. The witness protection procedure is launched by the initiative on the application of the Protection Programme which can be submitted by: the witness, competent public prosecutor, judge conducting the case, Head of the Institution for Enforcement of Criminal Sanctions and Head of the Criminal Investigation Police. The Police Administration has formed a specialised unit responsible for the enforcement and application of the Witness Protection Programme. The Law on Witness Protection was drafted based on law regulations of the neighbouring countries and EU member states since one of the important factors of cooperation in the area of witness protection with the neighbouring countries is the compatibility of laws and other regulations related to witness protection. In the application of the Protection Programme, the Unit for Protection gives the protected persons necessary economic, psychological, social and legal help and helps them through economic and social measures to accomplish economic independence. International cooperation in the application of the Protection Programme is realised based on the international treaty, separate agreements or based on reciprocity. The Unit for Protection: submits the appeal to another state for the admission of a protected person and application of measures prescribed by the Law on Witness Protection and proceeds upon the appeal of another state for the admission of a protected person and application of protection measures in Montenegro.

The Law on Cooperation with the International Criminal Court regulates the cooperation with the International Criminal Court and fulfilment of other obligations, in accordance with the Rome Statute of the International Criminal Court, as well other issues regarding the prosecution of criminal offenders from Article 5 of the Statute, i.e. crimes against humanity and other goods protected by the international law related to violation of the international humanitarian law from the Criminal Code of Montenegro. Pursuant to the Law, the Government can conclude a special agreement with the International Criminal Court on issues of transfer of cases or on international cooperation. Furthermore, the Law stipulates the participation of Montenegro in the work of the Assembly of State Parties to the International Criminal Court, as well as in the work of other bodies of the Court and the allocation of funds for financing the International Criminal Court that Montenegro is obliged to provide in accordance with the Statute and that are secured in the Budget of Montenegro.

The Information Bulletin for the Injured Parties/Witnesses was developed for the support to witnesses and it provides main information on the proceedings and the role of a witness in those proceedings, as well as the contacts of the service for support to the injured parties/witnesses. Also, a special area where the witnesses will stay during the proceedings is provided. During the proceedings for war crimes, the presence of a medical team is provided in the court.

The Judicial Training Centre organised a number of seminars on international humanitarian law within the continuous training of judges and public prosecutors, in accordance with the Annual Training Programme.

In Montenegro, there was a total of 6 proceedings for the criminal offence of war crime against civilians for the events from 1991-1996 that are familiar to the public as the cases: *Štrpci, Klopuh, Bukovica, Kaluđerski Laz, Deportation and Morinj*.

In the case *Klopuh*, there were final and enforceable judgments of conviction against five persons, and in the case of *Štrpci*, there was a final and enforceable judgment of conviction against one person.

The case *Bukovica* is concluded with a final and enforceable judgment of acquittal for all the defendants, and the request for the protection of legality presented by the Supreme Public Prosecutor's Office was rejected by the decision of the Supreme Court.

The case *Deportation* is concluded with a final and enforceable judgment of acquittal for all the defendants, and, in this case, there is a legal possibility for

presentation of the request for the protection of legality.  
 In the case *Kaluđerski Laz*, there is an on-going proceeding against eight defendants; the next main hearing is scheduled for 24 June 2013.  
 In the case *Morinj*, a final and enforceable judgment of acquittal was passed regarding two persons, while the proceeding for four defendants is on-going and the next main hearing is scheduled for 26 June 2013.

**1.5. WAR CRIMES PROCEEDINGS**

No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
1.5.1.	With the aim to prevent impunity for war crimes, prepare report including data and relevant information on proceedings in war crimes cases upon submitted criminal acts and/or upon direct knowledge of state prosecution office.	Supreme Public Prosecutor's Office	December 2013 and continuously	Budget EUR 1,500	Report prepared	Number of final and enforceable judgments Proceedings and judgements in line with international humanitarian law and the case law of the ICTY
1.5.2.	Organise compulsory trainings for judges and prosecutors on international humanitarian law, involving international experts and in cooperation with the ICTY.	Judicial Training Centre	October 2013 and continuously twice a year	Budget EUR 8,000	Training for 20 judges, 10 state prosecutors and 5 associates in prosecutor's office organised	Correct and full application of international humanitarian law as well as the domestic criminal code in the domestic handling of war crimes
1.5.3.	Provide witness protection in war crime cases according to the Criminal Procedure Code during the proceedings and beyond the proceedings according to the Law on Witness Protection.	High Courts Public Prosecution Office Police Administration	Continuously	Budget	Protection provided	Number of protected witnesses Confidence of witnesses in the witness protection system; increased readiness of witnesses to testify
1.5.4.	Provide protection for war crime victims according to the rules of the Witness Protection Service.	High Court in Podgorica High Court in Bijelo Polje	Continuously	Budget	Protection provided	

1.5.5.	Raise awareness of witnesses of the existence of a witness protection system	High Court in Podgorica High Court in Bijelo Polje Supreme Public Prosecutor's Office- Special Department Police Administration – Victim Protection Unit	Continuously	Regular budget 1,810 EUR	Preparing brochure Providing information by focal points Information on witness protection available at <a href="http://www.sudovi.me">www.sudovi.me</a>	
1.5.6	Prepare report on data regarding proceedings in cases for compensation of civilian victims of war crimes	Supreme court	December 2013 Continuously	From regular budget	Report prepared	Number of requests for compensation of civilian victims of war crimes. Number of civilian victims of war crimes who are granted reparation with data on amount awarded and legal bases on which the compensation is awarded

## 2. FIGHT AGAINST CORRUPTION

### INTRODUCTION

Fight against corruption required numerous reforms both at normative and institutional level and establishment of special anti-corruption institutions with preventative, repressive and combined competences has been started. This relates to bodies and authorities which were established based on special laws i.e. Government's decrees and which through its competences, within the special field of operation, contribute to the fight against corruption. Also, it is relevant to point out that Montenegro acceded to all relevant international documents referring to the fight against corruption. National legislation encompasses several regulations, including the most important: Criminal Code, Criminal Procedure Code, Law on Public Prosecution Office, Law on Courts, Law on Judicial Council, Law on Free Access to Information, Law on Conflict of Interest, Law on Witness Protection, Law on Criminal Liability of Legal Persons etc. For that purpose, Montenegro established special and reformed the existing anti-corruption institutions with preventative, repressive or combined competences such as: Administration for Anti-Corruption Initiative, Administration for Prevention of Money Laundering and Terrorism Financing, Public

Procurement Directorate, Commission for Control of Public Procurement Procedure, State Audit Institution, and Commission for Prevention of Conflict of Interest. Besides special anti-corruption institutions, institutional reforms also led to establishment of special departments within the existing public bodies, primarily those which dealt with detection, prosecution and punishment of perpetrators of corruptive criminal offences. Thus, special departments were formed within the Police Directorate, the Supreme Public Prosecutor's Office and the High Court, which deal with those issues. In such a manner, the Police Directorate is competent for detection of all criminal offences including corruptive criminal offences. Within the police there are special departments for the fight against organized crime, economic crime as well as the Unit for witness protection. Public Prosecution Office, according to Criminal Procedure Code, is competent *inter alia* to manage pre-trial investigation by issuing obligatory orders to police as well as to prosecute perpetrators of criminal offences. Within the Supreme Public Prosecutor's Office, it was formed special Department for suppression of organized crime, corruption, terrorism and war crimes which competence encompasses prosecution of perpetrators of corruptive criminal offences. The Law on Courts specially regulates corruptive criminal offences which are in the competence of the Department, and those criminal fall under the jurisdiction of the High Court, i.e. specialized departments of the High Court. Also, very important role in the system of the fight against corruption has Public Property Administration competent for maintaining and managing temporarily and permanently seized property.

New Criminal Procedure Code entered into force on 26 August 2009. One year later, on 26 August 2010, its gradual application was initiated in procedures for criminal offences in the field of organized crime, corruption, terrorism and war crimes, while its full application started on 1 September 2011. *Vacatio legis*, lasting for a year, was provided for more efficient application of the law which again provided possibility to all subjects of the future criminal procedure to properly prepare for the application of new legal norms and mechanisms, as well as to provide conditions for better acceptance of new solutions, within the meaning of psychological aspect.

In order to harmonize practice and specialisation for corruptive cases, and taking into account that this group of criminal cases is more difficult to prove and specialist i.e. additional knowledge is required to prosecute and to make judgement, it is necessary to carry out centralization of competences for these crimes and to entrust them to the High Courts. Also, it is planned to carry out changes in the area of centralization of competences by establishing separate specialist Prosecution Office. The aim of these changes is to achieve cost-effectiveness of proceeding and all costs taking into account that need for enforcement of certain evidentiary actions and monitoring of the flow of proceeding require support by special Information Technology equipment. In such a manner, a high level of specialisation is going to be achieved and the very proceeding is going to be more rational.

In order to coordinate and monitor the implementation of reforms in this area, the Government of Montenegro adopted a national Strategy for the Fight against Corruption and Organized Crime 2010-2014 together with the AP (2013-2014). In relation to the Strategy and AP, the implementation of which will be monitored by the National Commission composed of the highest public and the non-governmental representatives, a connection with the Action Plan for the Chapter 23 is provided in a way that reports on the implementation of the national AP (2013-2014) shall be submitted parallel with the reporting according to the AP for Chapter 23. The Strategy and the AP are available in English and can be downloaded at the link: [http://antikorupcija.me/en/index.php?option=com\\_phocadownload&view=category&id=7:&Itemid=91](http://antikorupcija.me/en/index.php?option=com_phocadownload&view=category&id=7:&Itemid=91), while the semi-annual reports on the implementation of the AP can be downloaded at: [http://antikorupcija.me/en/index.php?option=com\\_phocadownload&view=category&id=22:&Itemid=91](http://antikorupcija.me/en/index.php?option=com_phocadownload&view=category&id=22:&Itemid=91).

The National Strategy for the fight against corruption and organized crime (2010-2014) regulates: strategic directions, principles and objectives in the fight against corruption and organised crime, priority measures within the area of establishing efficient system for the fight against corruption and organised crime in the public, private and civil sector, role and responsibility of all subjects which is a basis for efficient development of sustainable system of

monitoring and evaluation of the overall national response to the threats posed by corruption and organised crime. The Strategy represented framework for the adoption of the Action Plan for 2010-2012 which defined objectives, measures, carriers of activities and the dynamics of their realisation in the first phase of the Strategy implementation. The Action Plan for the period 2013-2014 represents launching of the second phase of the implementation of the national Strategy for the fight against corruption and organized crime 2010-2014. This Action Plan is used for the implementation of priorities of Montenegro in the field of the fight against corruption and organised crime at the national and international level. These priorities are regulated by the above mentioned Strategy, recommendations of the National Commission, recommendations of the international organisations and institutions, as well as relevant institutions of Montenegro. The Action Plan defines objectives, measures, competent bodies, deadlines, and performance indicators during the implementation of activities of line ministries, administration bodies and institutions competent for prevention and suppression of corruption and organised crime. The Action Plan contains four areas: priorities for suppression of corruption at political and international level, prevention of corruption in law enforcement agencies, organised crime, areas posing special risk. Within these areas, 109 objectives are defined containing 230 measures, and 74 institutions are in charge of their realisation.

AP for fight against corruption and organised crime for 2013-2014, is short term document with duration of 2 years, aiming to operationate goals defined by the national Strategy for fight against corruption and organised crime, while the AP for the chapter 23 is operationate reccommendations from the Screening report. It is also the document of higher importance with the duration of 5 or more years. Two AP are compatible and in accordance with national and international priorities for fight against corruption reccommended for Montenegro. In that sence two AP contains same or similar measures, in cases where the priorities from the Strategz and Screening report are same or similar.

## **2.1. PREVENTIVE ACTIONS AGAINST CORRUPTION**

### **2.1.1 Recommendation: Strengthen and possibly review the institutional framework for the fight against corruption. In particular, DACI's competences need to be upgraded and its capacities reinforced.**

#### **STATE OF PLAY**

The existing institutional anti-corruption framework includes several preventative (Directorate for Anti-Corruption Initiative, Commission for Prevention of Conflict of Interest), combined (Administration for Prevention of Money Laundering and Terrorism Financing) and repressive bodies and authorities. Through Amendments to the Law on State Administration and the new Rulebook on the organization and functioning of public administration, the rationalization and centralization of administrative authorities has been carried out. Thus, the Directorate for Anti-Corruption Initiative became a body within the Ministry of Justice with the same preventative competences (October 2012), and the Commission for Prevention of Conflict of Interest became more specialized as inspection body especially after March 2012 since implementation of the last amendments to the Law on Prevention of Conflict of Interest .

In order to make analysis of efficiency of the anti-corruption initiative, the Directorate for Anti-Corruption Initiative, during 2012 prepared several analytical documents including: the Analysis of the impact of establishing the Agency for the fight against Corruption, analysis of the anti-corruption institutional framework in Montenegro, proposal of measures to improve, strengthen and further specify the modalities of coordination in the area of prevention of corruption, and the Communication on the effectiveness of the implementation of anti-corruption laws which control competencies have been expanded with the latest amendments (Public Property Administration, APMLTF, Commission for Prevention of Conflict of Interests, State Audit Institution, State Election Commission). These analyses also suggest that "further changes to the anti-corruption framework in Montenegro will depend on the directions of the reform of public administration, i.e. whether the current partial rationalization and centralization of administrative authorities will show results, primarily in terms of strengthening efficiency.

In line with the findings from analytical documents, taking into account recommendations from the Report on analytical review of harmonization of legislation for Montenegro (Chapter 23), as well as relevant international conventions and legal instruments such as: the United Nations Convention against Corruption, COE Criminal Law Convention on Corruption, Civil Law Convention of COE on corruption, EPAC standards of anti-corruption bodies etc. which mainly contain mandatory obligations that state should establish and maintain "necessary independence" of anti-corruption bodies (ACA), the Government of Montenegro adopted Conclusion (14 February 2013) which entrusts the Ministry of Justice to: "prepare and propose a model which would improve complete anti-corruption policy (prevention and inspection of law application), such as establishing unique anti-corruption body-agency or strengthening capacities (through laws and personnel) of the existing Administration for Anti-Corruption Initiative".

In order to improve, strengthen and specify coordination in the field of prevention, as well as implement this objective, it is necessary to start with establishing new, more efficient and effective anti-corruption body based upon the law. In this respect, the Agency for the fight against corruption shall be established as an independent and autonomous anti-corruption body (in line with Article 6 of the UNCAC and ACA standards) which shall compile and improve the existing competences of the Directorate for Anti-Corruption Initiative, Commission for Prevention of Conflict of Interest as well as competences



of the State Election Commission in the area of control of financing political parties and election campaigns, then competences of the National Commission for implementation of the Strategy for the fight against corruption and organized crime.<sup>1</sup>

The Agency will compile human and technical capacities of the Directorate for Anti-Corruption Initiative, Commission for Prevention of Conflict and part of employees from the State Election Commission as well as employ a number of new employees for fulfilling new obligations from the competences of the Agency. The competences of the Agency will refer to coordination, supervision and monitoring the implementation of strategic documents for the fight against corruption with the supporting action plans; coordination and monitoring of the implementation of the integrity plans; direct implementation and application of the Law on Lobbying (certification and registration of lobbyists, control and supervision of lobbying); administrative control in the area of prevention of the conflict of interests and financing political parties, protection of persons who report corruption and initiating conclusion of international contracts and amendments to regulations in order to fully apply international anti-corruption standards. By establishing this body, visible results will be achieved very soon within allocated competences, first by achieving functional independence and autonomy of the Agency in the field of supervision and control of anti-corruption Laws prescribed by the Law on the Agency for Anticorruption. Following the adoption of the Law on the Agency for Anticorruption, in line with the Model, the budget of Montenegro for 2015 will provide for adequate assets for smooth work of the Agency (premises, employees and equipment via merging budget assets allocated for the Directorate for Anti-Corruption Initiative, Commission for Prevention of Conflict of Interest and part for the State Election Commission with percentage increase of up to 30% approximately the Agency budget would amount to EUR 710,000). Part of the assets, in particular for establishing and developing necessary IT systems, shall be secured through international donations in the envisaged amount of around EUR 400,000 for establishing interface with data bases of other institutions in order to check property files of officials. Until establishing and launching the work of the Agency, the tasks from its competence shall be carried out via the existing institutions such as the Directorate for Anti-Corruption Initiative, Commission for Prevention of Conflict of Interest, National Commission and the State Election Commission.

No.	Measure/Activity	Responsible authority	Deadline	Required funds/ Source of financing	Indicator of result	Indicator of impact
2.1.1.1	Make and adopt a model for improvement of institutional and normative anti-corruption preventative framework (establishment of the Agency for anti-corruption).	MJ in cooperation with Ministry of Finance, DACI and CPCI and engagement of expert	September 2013	Expert support through IPA 2010 "Support to implementation of anti-corruption strategy and Action Plan"	-Made Model for new anti-corruption framework with special focus on evaluation of role and function of DACI, CPCI, National Commission and the State Election Committee within the field of competences for control of financing political parties and election campaigns which contains:	-Defined legal framework for establishing the Agency for anti-corruption which should include the existing competences of the Directorate for Anti-Corruption, National Commission and present and planned competences

<sup>1</sup> The National Commission monitors the implementation of the Action Plan for implementation of the National Strategy for the fight against corruption and organized crime and adopts a report which, jointly with recommendations, submits to the Government of Montenegro.

				EUR 1,300	<ul style="list-style-type: none"> <li>-Evaluation of the Action Plan for the period 2011-2012,</li> <li>-Evaluation of the international organizations in relation to achieved results and inter-institutional cooperation,</li> <li>-Analysis of anti-corruption framework with indicators of work efficiency of the existing bodies and level of their coordination;</li> <li>- concrete solutions regarding drafting the Law on Agency for Anti-Corruption, with a view of competences and relations with other institutions using experiences from up-to-date established similar models (Slovenia, Serbia;</li> <li>- organizational and personnel structure, assessment of necessary number of employees, manner and deadlines for taking over employees from the existing bodies as well as necessary budget assets, premises and equipment; necessary specialization and education of employees.</li> </ul>	of the CPCI and SEC in the field of competences for control of financing political parties and election campaigns.
2.1.1.2.	Prepare Plan for the implementation of a model for new anti-corruption framework.	MJ in cooperation with MF, DACI and CPCI and expert engagement	October 2013	Budget Expert support through IPA 2010 "Support to implementation	<ul style="list-style-type: none"> <li>-Defined Plan for implementation of model for new anti-corruption framework, within the meaning of defining necessary harmonization of the Proposal for the Law on Agency for anti-corruption with the</li> </ul>	-The Law on the Agency for Anti-Corruption started with its application with simultaneous amendments to and harmonization with laws

				of anti-corruption strategy and action plan”	Law on Prevention of Conflict of Interests, the Law on Financing of Political Subjects and Election Campaigns, the Law on Lobbying, the Law on Civil Servants and State Employees, the Law on Labour and other regulations within this area.	from which it took over individual competences.
2.1.1.3.	Adopt the Law on Agency for Anti-Corruption in line with proposed model. The Law shall define the following competences of the Agency: coordination, supervision and monitoring of the implementation of strategic documents for the fight against corruption with the supporting Action Plan, coordination and supervision over the implementation of integrity plans; direct implementation and supervision over the Law on Lobbying, the Law on Prevention of Conflict of Interests and the Law on Financing Political Subjects and Election Campaigns, protection of whistle blowers and initiating	MJ in cooperation with DACI, CPCI and participation of NGO and expert engagement through TAIEX	June 2014	Budget EUR 31,770 (Working Group consisting of 8 members, effective work for 2 months – Draft of the Law –EUR 12,960; Public discussion EUR 3,810; Work of Parliamentary Boards EUR 15,000; TAIEX EUR 2,700 (one expert – five working days).	-Adopted the Law on Agency for Anti-Corruption in line with proposed model and expert opinion from European Commission. Law on Agency for Anti-Corruption will be applied from January 1 <sup>st</sup> , 2016, when the Agency will be operational as well.	-Established legal basis for the work of the Agency for anti-corruption with defined competences and secured functional and financial independence and autonomy of the Agency.

	conclusion of international contracts and amendments to regulations in order to fully apply international anticorruption standards.					
	2.1.1.3.1. Define the Draft of the Law.	MJ, DACI, CPCI, MF	December 2013	Budget EUR 12,960	The draft of the Law on Agency for Anti-Corruption defined.	
	2.1.1.3.2. Obtain expert opinion of European Commission.	MJ, DACI, CPCI, MF	January 2014	Necessary expert support EUR 2,700	Obtained opinion on the text of the Law.	
	2.1.1.3.3. Organize public discussion.	MJ, DACI, CPCI, MF	February 2014	Budget EUR 3,810	Organized public discussion.	
	2.1.1.3.4. Prepare Proposal for the Law.	MJ, DACI, CPCI	March 2014	Budget EUR 15,000	Proposal for the Law prepared.	
2.1.1.4.	Provide financial, personnel and technical assets for the work of the Agency.	Agency for Anti-Corruption in cooperation with MF	December 2015	Budget, assets for the work of the Agency - annually around EUR 710,000 since 2016.	<ul style="list-style-type: none"> <li>- Adopted Rulebook on internal organization and job description for the new Agency for anti-corruption,</li> <li>- Occupied working posts by taking over officers from DACI, CPCI and taking over a part of employees from SEC who were in charge for control of financing political parties as well as employing new employees in line with expanded competences.</li> <li>- Developed plan for specialist trainings and continuous education of employees in line with competences.</li> <li>- Prepared and approved the proposal for the budget of the</li> </ul>	<p>Improved rating of Montenegro in reports of CPI Transparency International, World Economic Forum.</p> <p>Improved evaluation in Progress report for 2016 made by European Commission.</p>

					Agency by the Parliament for 2015.	
2.1.1.5.	Adopt the Law on the Amendments to the Law on lobbying. The Law shall contain clear procedures of lobbying including obligation of keeping public register on lobbyists.	MJ, in cooperation with DACI / Agency for anti-corruption <sup>2</sup>	September - December 2013	Budget (Working Group consisting of 3 members, effective work – one month- the draft of the Law EUR 2,430; Public discussion EUR 3,810; Work of Parliamentary Boards EUR 15,000)	Defined the Proposal for the Law.  Adopted the Law on the Amendments to the Law on lobbying.	Precisely defined legal framework for efficient implementation of the Law on lobbying. Increased level of transparency of the work of decision makers, decrease of possibilities for illegal influence on decision makers.
2.1.1.6.	Monitoring the application of the Law the Agency for anti-corruption,	Agency for anti-corruption	Since first quarter of 2016 Once a year	Budget (Working Group consisting of 10 persons, effective work - 2 months – EUR 20,000)	Reports made and published, containing number of checks of property files, number of controls of sources of financing political subjects and manner of spending secured assets, number of controls of persons who were subjected to lobbying and lobbyists, number of actions of the Agency carried out upon the basis of reports made by persons who report corruption, number of adopted integrity plans, number of submitted reports on implementation of integrity plans, number of implemented measures	Increased number of detected irregularities in relation to the competence of the Agency. Number of initiated and adopted misdemeanour, administrative and criminal proceedings in relation to the previous period. Number and types of imposed sanctions in relation to previous period.

<sup>2</sup>Until the Agency for anti-corruption starts to work, DACI shall carry out the tasks within the competence of lobbying.

					<p>from integrity plans and number of recommendations of the Agency for improving integrity plans, number of sent initiatives for amendments to the anti-corruption regulations.</p> <p>Report on implementation of national strategic documents in the area of anti-corruption (local action plans, Action Plan for vulnerable areas).</p>	
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**2.1.2 Recommendation: Improve the system of asset declarations, strengthening in particular the supervisory competencies and the professional capacity of the Commission for prevention of conflict of interest to ensure effective and substantial checks on assets, and introduce measures preventing conflicts of interest going beyond holding double public offices (such as public decision makers holding stakes in private companies etc.).**

**STATE OF PLAY:**

The first Law on the Conflict of Interest in Montenegro was adopted in 2004. Since the Law on the Conflict of Interest did not contain adequate legal mechanisms to effectively suppress the conflict of interest, and since it failed to provide for explicit policies in the wider sense of incompatibility of functions, the new Law on the Prevention of Conflict of Interest was adopted in late 2008. Pursuant to the provisions of the new Law on the Prevention of Conflict of Interest, the Parliament of Montenegro adopted, at its session held on 29 July 2009, a Decision on the appointment of a chairman and six members of the Commission for the Prevention of Conflict of Interest (CPCI), through which the number of the Commission's members was increased from four to six (Official Gazette of Montenegro 51/09), so that the newly appointed Commission started its work under the provisions of the new Law.

With a view to harmonise the provisions of the Law with the European and other international standards in the field of anti-corruption initiatives and transparency of business transactions, in October 2010, the Commission has initiated a process to amend the Law on the Prevention of Conflict of Interest, which resulted in the enforcement of Amendments to the Law on the Prevention of Conflict of Interest (Official Gazette of Montenegro 41/11 and 47/11). The application of one of its provisions started on 1 November, while all the other provisions are applied as of 1 March 2012. The amended provisions include, inter alia, the EC recommendations and GRECO proposals (extension of CPCI powers and strengthening its oversight role, particularly in verifying data submitted by public officials, prevention of persons directly elected in elections from being members of the management and supervisory boards, executive directors and members of management, control of movable and immovable property as reported in the asset declarations, increased fines imposed by the misdemeanour bodies, imposing disciplinary measures, suspension and dismissal and revocation of gifts received in violation of the law, etc.). In article 12. of the Law is precisely described obligation of public official to give a declaration on existence of conflict of interest in case where he participates in discussion and decision-making in the authority where he discharges public office, in a matter in which he or a related person have private interest, and to inform thereof other participants in the discussion and decision-making prior to his participation in the discussion and not later than commencement of decision-making. The authority in which the public official discharges public office shall enter the declaration of the public official on

existence of conflict of interest into the minutes and request the CPCI's opinion thereon.

The public official may not participate in discussion and decision-making until the CPCI gives the opinion on existence of conflict of interests. Decisions adopted in contravention with provisions of this Article shall be put out of force by the competent authority, in accordance with the relevant law and inform the CPCI thereof.

As an independent body, the CPCI establishes the existence of a conflict of interest as well as the measures to prevent conflicts of interest. The CPCI gives or adopts opinions on the conflict of interest, as well as makes the decisions on the violation of this Law and other laws in this area, in accordance with the law. The CPCI's opinions and decisions are binding for public officials. One of the statutory powers of the Commission is to cooperate with international organizations and institutions in other countries that are dealing with the prevention of conflicts of interest. The CPCI verifies the data since 1 March this year, when this legal provision started to be implemented. The CPCI checks the data presented in the report with data from other agencies and legal entities that manage such information and compares the information reported in the Report with the data collected (Tax Administration, Real-Estate Administration, Public Procurement Administration, Securities Commission of Montenegro). .

By June 2013, 3364 of overall 3571 public officials or 94.2% submitted asset declaration for 2012. The CPCI has submitted 263 requests for misdemeanour procedure against 191 local and 72 state public officials for failing to submit asset declarations. In addition, CPCI has submitted 80 requests for misdemeanour procedure for submitting incomplete and incorrect data in asset declaration or the membership of more than one board of public companies or membership on the boards of private companies. Total number of all misdemeanour proceedings in 2013 is 347, 190 of which are final and the total amount of imposed fines is 8905.00€. During 2012 CPCI has submitted overall 22 requests for dismissal, suspension or imposition of disciplinary measures, 19 for local officials in 11 municipalities and 3 for state officials (principal, chief inspector and a public official appointed by the Parliament of Montenegro), for failing to submit asset declarations. Regarding these requests, one principal and nine local officials were dismissed while four public officials resigned. Two public officials have eliminated acting contrary to the law, while two officials quit their functions. Also, in 2012 total of 442 requests for misdemeanour proceedings have submitted of which 295 officials have been fined.

In accordance with the applicable law, the CPCI does not have automatic access to databases held by other state authorities. Likewise, in accordance with the applicable law, the CPCI does not have the legal authorization to access banking information, as regards public officials. The implementation of the IPA 2010 is currently underway, through which an analysis of the compliance of this Law with international and EU standards will be prepared. In accordance with the recommendations from the analysis, the intention is to provide for new solutions that will overcome the limitations of certain laws, in order to achieve full implementation of the Law on the Prevention of Conflict of Interest (Law on Banks - checking bank accounts; Law on Personal Data Protection - disclosure of public officials data; Law on Prevention of Money Laundering and Financing of Terrorism - in monitoring suspicious transactions by public officials). In order to continue with legislative changes it is necessary to provide for information networking, so that the CPCI i.e. the Agency for anti-corruption has at its disposal all the necessary information during the verification of property. It is also necessary to establish the system of monitoring the sanctions undertaken against those who violated the law.

By the adoption of the Law on Agency for anti-corruption, the competences and employees of the CPCI shall be taken over by the new Agency.

No.	Measure/Activity	Responsible authority	Deadline	Required funds/ Source of financing	Indicator of result	Indicator of impact
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2.1.2.1	<p>Prepare the analysis of compliance of provisions of the Law on the Prevention of Conflict of Interests with the international standards, in a particular in relation to:</p> <ul style="list-style-type: none"> <li>-definition of a public official, scope and categories of persons obliged to report property through possible amendments to the Law on Internal Affairs, Law on Customs Service, the Law on Public Prosecution, the Law on Courts, the Law on Civil Servants and State Employees etc. (e.g. certain categories of employees in a special Prosecution Office, categories of police, customs, tax and other civil servants),</li> <li>-elimination of remunerations of officials working on boards of state owned companies.</li> <li>-authorizations in the part related to the control of the asset declarations respecting rules on personal data protection,</li> <li>-establishing obstacles for accessing necessary data bases for checking property,</li> <li>-misdemeanour sanctions and</li> </ul>	CPCI in cooperation with MJ, MF, APMLTF, Personal data Protection Agency, CBM and expert engagement	October 2013	<p>Budget Secured expert support through IPA 2010 "Support to implementation of anti-corruption strategy and action plan"</p> <p>Expert support in total EUR 8,680</p>	<p>-Prepared analysis of compliance in line with expert opinions including the recommendations for amendments to the Law (the Law on the Prevention of Conflict of Interest, the Law on Internal Affairs, Law on Customs Service, the Law on Public Prosecution, the Law on Courts, the Law on Civil Servants and State Employees etc.)</p>	<p>- Prepared proposal of measures for the amendments to the law.</p> <p>- During analysis, it was made compliance with solution from model under measure 2.1.1.1. in the part of prevention of conflict of interests.</p>
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	<p>their application,          -the possible introduction of the form of the statement on the control of the bank account of a public official etc.</p>					
2.1.2.2.	<p>Adopt the amendments to the Law on Prevention of Conflict of Interests in line with recommendations from the Analysis which shall define:          -the extension of the categories of persons obliged to report property,          -work of officials in boards of state owned companies, without remunerations,          -precisely prescribed authorities in the checking of asset declarations,          -new solutions with the aim to fully apply the Law, regarding limitations regulated by certain laws (Law on Banks - checking bank accounts; Law on Personal Data Protection - disclosure of public officials data; the Law on Prevention of Money Laundering and Financing of Terrorism - in monitoring suspicious</p>	<p>CPCI in cooperation with MJ, MF, APMLTF, Personal data Protection Agency, CBM and expert engagement</p>	<p>June 2014</p>	<p>Budget EUR 23,454 (working group consisting of 6 members, effective work-quarter of working hours of 1 month-draft of the Law EUR 1,944; Public discussion EUR 3,810; work of Parliamentary Boards EUR 15,000; TAIEX EUR 2,700, one expert five working days)</p>	<p>Adopted the Law on the Amendments to the Law on Prevention of Conflict of Interests.           Number and type of adopted by-laws needed for implementation of law.</p>	<p>-Enabled access to bank accounts of public officials and members of their families;          -Enabled checks of property of great number of public officials, in line with extended definition of public official;</p>

	transactions by public officials. -sanctions related to violations of the rules on conflict of interest clearly specified (especially in the case on no reporting of assets and incorrect data in the asset declaration).					
	2.1.2.1.1 Define the Draft of the Law.		December 2013	Budget EUR 1,944	The Draft of the Law defined.	
	2.1.2.1.2. Obtain expert opinion of European Commission.		January 2014	Necessary expert support EUR 2,700	Opinion of European Commission obtained.	
	2.1.2.1.3. Organize public discussion.		February 2014	Budget EUR 3,810	Public discussion organised.	
	2.1.2.1.4. Define the Proposal for the Law.		March 2014	Budget EUR 15,000	Proposal for the Law defined.	
2.1.2.3.	Monitor application of the law and publish report at Internet page of CPCI/Agency and Parliament of Montenegro.	CPCI/Agency for anti-corruption <sup>3</sup>	March 2014 March 2015	Budget EUR 7,776 (working group consisting of 8 members, effective work 3 months, one fifth of working hours)	-Prepared annual report and published at Internet page. Published information on detected violations of provisions of the Law on Prevention of Conflict of Interests.	Increased number of violations of provisions of the Law in relation to previous period.
2.1.2.4.	Improve the system of reporting property Improve mechanisms for efficient checks of data accuracy from	CPCI/Agency for anti-corruption <sup>4</sup>	March 2014 March 2015	Budget EUR 4,374 (2 members, effective work - 9 months, one third	- Improved template for reporting property. -Number of public officials whose reports were	Number of property files and statements on conflict of interests in relation to number of

<sup>3</sup> Until the Agency for anti-corruption starts to work, CPCI shall carry out the tasks within the competence of prevention of conflict of interests.

<sup>4</sup> Until the Agency for anti-corruption starts to work, CPCI shall carry out the tasks within the competence of prevention of conflict of interests.

	<p>reports of public officials:</p> <ul style="list-style-type: none"> <li>- Expand template of property files with detailed data on type, structure of property and manner of gaining property as well as detailed data on credit debts and assets;</li> <li>-Compare data from property files and records of the Tax Administration, Real Estate Administration, PPA, MI, Securities Commission, Ministry of Maritime Affairs and Transport, Commission for the Control of Public Procurement Procedure, SEC, AMLTF, CBM;</li> <li>-Establish template for monitoring undertaken measures by competent bodies upon the basis of reports of CPCI and its recommendation, requests and decisions;</li> <li>-Follow measures undertaken against perpetrators;</li> <li>-Evaluate efficiency of established mechanisms at annual level.</li> </ul>			of working hours)	<p>checked in relation to data accuracy on incomes and property and information <u>available in registers</u> of Tax Administration, Central Register of Commercial Court, Land Registry, PPA, Commission for Control of Public Procurement Procedure;</p> <ul style="list-style-type: none"> <li>- Percentage of public officials whose reports were checked in relation to <u>total number of public officials</u>;</li> <li>- Checks of changed data in reports referring to changes of financial situation of public official (since 2013).</li> <li>-Established template for monitoring undertaken measures by competent bodies upon the basis of CPCI reports and its recommendations, requests and decisions.</li> <li>-Number of initiated proceedings due to detected violations.</li> </ul>	<p>detected irregularities.</p> <p>Number of launched and established misdemeanours, types of misdemeanours in relation to the previous period.</p> <p>Number and type of imposed sanctions.</p>
2.1.2.5.	Establish automatic networking and access of the CPCI to data bases of bodies	CPCI, in cooperation with Ministry for	September 2014	Budget EUR 12,000 Secured assets through IPA 2010	- Developed conceptual design (interface) for access to data bases;	Increased number of checks of data; Number of reports on

	and institutions which hold data on property and incomes of public officials; - secure data bases, software and their maintenance.	Information Society, Real Estate Administration, Tax Administration, PPA, Securities Commission, Ministry of Maritime Affairs and Transport, MF		“Preparation of implementation of anti-corruption strategy and action plan” EUR 8,750 USAID CEMI (total evaluation for creating interface for access to data bases, evaluation of IPA experts EUR 400,000)	Established operative interface for access to data bases: Tax Administration, Real Estate Administration, PPA, MI, Securities Commission, Ministry of Maritime Affairs and Transport, Commission for the Control of Public Procurement Procedure, SEC, AMLTF, CBM, MF. Data base and software made.	irregularities to competent bodies with reference to previous period.
2.1.2.6.	Prepare the Program and Plan of trainings for: employees in the CPCI, especially in the part of control competences and use of data bases and public and local public officials in relation to obligations prescribed by the Law on prevention of conflict of interests. Implementation of trainings prescribed by the programme and plan.	CPCI with Human Resources Administration	December 2013  January - December 2014	Budget EUR 13,000 (for preparation of programme and plan - 4 persons, one fifth of working hours, effective work of one month for 2013, implementation of program, in total 20 lectures, costs per lecture EUR 650)	Adopted annual training plan.  Number and type of carried out trainings, number and structure of trained employees.	Report on carried out trainings and number and ranks of participants.

2.1.2.7.	Strengthen the public awareness on the institute of the conflict of interest and its influence on society, the need for reporting the cases of violation of the law and the role of citizens.  -Organise workshops for public officials, state and local, presence of experts from similar institutions, local experts.	CPCI in cooperation with NGOs Municipalities with possible engagement of experts from the neighbouring countries	June – December 2013  January – December 2014	Budget Necessary additional assets from smaller donations (two campaigns annually, in the amount of EUR 5,000 per each)	- Number of public campaigns carried out independently and in cooperation with NGOs. -Number of organized workshops and number of participants. - Made new promotional material.	-Number of reports submitted by citizens in relation to total number of considered cases of conflict of interest, in comparison to the previous period. Number of decisions upon which basis the Commission/Agency found that there was conflict of interests by public official, according to report made by citizen.
2.1.2.8.	Promote ethical codes for carriers of legislative, executive and judicial powers: -organize round tables for members of Parliament, judges, prosecutors and public officials and local public officials Link: measures 1.2.4.1- 1.2.4.5 2.1.7.10 2.1.8.4 and 2.1.8.5	CPCI in cooperation with NGOs Municipalities with possible engagement of experts from the neighbouring countries	January – December 2014	Budget EUR 13,000 (for 2013, implementation of program, in total 20 lectures, costs per lecture EUR 650).	Number of organized round tables and number and structure of participants. -Made new promotional material.	Decreased number of violations of provisions of Codes on Ethics in relation to the previous period.

**2.1.3 Recommendation: Review the rules of procedure of the public administration, including appointment and internal control, to fully integrate prevention of corruption and conflicts of interest aspects.**

#### STATE OF PLAY

In March 2011 the Government of Montenegro adopted the *Strategy of Public Administration Reform* in Montenegro for the period 2011-2016 (AURUM), with the AP for its implementation <http://www.mup.gov.me/en/library/strategije?alphabet=lat>. Areas planned to be covered by further reform include: state administration, local self-government, public services and other organizations exercising public powers. Important directions for state administration

reform within the public administration system, relate primarily to the following:

- structural adaptation of the state administration system in accordance with the best European standards, reorganisation according to EU criteria, streamlining state administration, increasing efficiency and savings, improving coordination within the state administration, its openness, accessibility and participation of citizens in the conduct of public affairs,
- stabilization of public finances by managing a uniform policy of salaries in public administration and remuneration according to performance, as well as better planning and strengthening the control of expenditure of budgetary funds,
- improvement of the civil service system through further development and management of human resources, application of merit-based system for recruitment and promotion, improvement of civil servants' education and training aimed at acquiring knowledge, skills and competencies, as well as providing on-going professional training,
- achieving higher quality of regulations and strategic documents in order to provide a consistent normative system. This particularly refers to measures in respect of the obligation to draft an analysis of regulatory impact on the legal system, to implement regulatory reform, draft laws and strategic documents and a better coordination of public policies,
- improvement of administrative procedures in order to provide better administrative services to citizens and other social and business entities,
- promotion of the e-governance system in public administrative bodies,
- improving the inspection system by establishing adequate organization, specifying the competencies and strengthening of human resources and technical capacities of inspection bodies.

One of the results of AURUM's implementation is the adoption of the Law on Civil Servants and State Employees (Official Gazette of Montenegro 39/11 and 50/11), the application of which started on 1 January 2013. This law prescribes transparent procedures for the employment in public bodies based on objective criteria, which is the basic prerequisite for achieving a de-politicized and professional civil service that works efficiently and impartially. Likewise, the Law establishes a system of merit-based promotion in the civil service and contributes to raising the level of ethics of civil servants and state employees in the fight against corruption. The following regulations were adopted on the basis of the Law on Civil Servants and State Employees: Decree on compulsory testing of ability to work, more detailed criteria and methods for assessing candidates applying for a position in state bodies (Official Gazette of Montenegro 4/13), Rulebook on monitoring and trial work appraisal of civil servants and employees (Official Gazette of Montenegro 51/12); Decision on the appointment of the President and members of the Appeal Committee (Official Gazette of Montenegro 11/2013); Rulebook on the criteria and method of making a list of Disciplinary Committee members (Official Gazette of Montenegro 62/12); Rulebook on the contents of the announcement, method of correction and withdrawal of the announcement and manner of applying to the announcement electronically (Official Gazette of Montenegro 8/2013), Decree on the criteria for classification of civil servants' positions into titles within levels and categories (Official Gazette of Montenegro 12/2013). The Law improves the protection of persons reporting possible cases of corruption and stipulates the obligation to adopt integrity plans in state bodies. AACI has developed *Guidelines for the Development of Integrity Plans*, adopted by the Ministry of Justice at the end of January. The risk intensity assessment was also adopted, as well as the form and draft integrity plan, which should, along with the legal grounds, further regulate and specify the obligation of state bodies to adopt integrity plans. By means of the IPA 2010 project "Support to the implementation of the Strategy and Action Plan for the Fight against Corruption", trainings for integrity managers (approximately 90 managers) in order to produce such a document for all state institutions. Pursuant to the provisions of the Law on Civil Servants and State Employees all public institutions are obliged to adopt integrity plans and the above IPA project provides expert

assistance for developing integrity plans for four pilot institutions: PA, CA, Basic Court in Podgorica and the Supreme Public Prosecutor's Office, which should be adopted by March 2014, by the completion of the project. In order to further strengthen integrity in state administration, at its session held on 15 March 2012, the Government of Montenegro adopted the Code of Ethics for Civil Servants and State Employees (Official Gazette of Montenegro 20/12 of 12 April 2012), the application of which started on 1 January 2013, governing the rules and standards of conduct to be obeyed by civil servants and state employees in the exercise of duties of state authorities. In order to monitor the application of the Code of Ethics, the Government passed the Decision to establish an Ethics Committee (Official Gazette of Montenegro 11/2013). This body is a novelty in our system which should contribute to the strengthening and promotion of ethical standards and rules of conduct of civil servants and the strengthening anti-corruption culture of civil servants themselves.

Demanding legislative activity, particularly in recent times, and the need to harmonize regulations with international standards, requires expertise and knowledge of both domestic and international regulations. With a view to further improve the quality of the legislative framework and its efficient implementation, the Government of Montenegro introduced in its Rules of Procedure for 2013 an obligation to conduct and deliver preliminary analyses of the impact of regulation, with each proposal for a regulation to be adopted, and provided for involvement of interested partners in their development. Also, HRA adopted a special training program that will be organized, in cooperation with the ministries and the Secretariat for Legislation, for employees drafting regulations.

In order to improve administrative procedures, recognizing the need to harmonize the legislation governing general administrative procedure with modern social and environment and standards, i.e. the requirements of the European Administrative Space, the Government of Montenegro planned, as one of the key priorities in 2013, the drafting of the new Law on General Administrative Procedure. The deadline - IV quarter of 2013. Inter-institutional working group, that drafted the Law, was consisted of representatives of the Ministry of interior affairs, Administrative Court, Faculty of Law, Faculty for State and European Studies, Ministry of Justice, General Secretariat – Government of Montenegro and SIGMA experts.

The overall objective to be achieved by the new Law on Administrative Procedure is to have a law that will ensure quality and fast services, protection of citizens' rights, and the protection of the public interest in aim of reducing the risk of corruption in the administrative procedures. In this sense, the specific objectives of the Law, among other things are:

- simplifying and speeding up the general administrative procedure;
- reducing procedural costs for all participants in the procedure;
- modernization of procedural mechanisms of the Law on Administrative Procedure;
- creating conditions and openness towards the use of modern information and communication technologies for providing administrative services (so-called e-government);
- more efficient protection of the public interest and the individual interests of citizens and legal persons in administrative matters;
- easier and more complete achievement and protection of both the legality, and the rights and freedoms of citizens in the process of direct application of regulations in administrative matters.

The period from the adoption of the law until the beginning of its implementation will last from 12-18 months and it will be used not only for training of employees who apply the LAP, but also to raise the awareness of citizens about the novelties concerning the exercise of their rights.

In order to ensure the monitoring of implementation of the Law on Administrative Procedure and the Law on Civil Servants and State Employees, it is necessary to strengthen administrative capacities of the Administrative Inspectorate. At the moment, the Administrative Inspectorate has three inspectors,

three more will be employed until the end of the year and three more administrative inspectors were planned to be employed until July 2014. Determining a special methodology for risk analysis in the exercise of inspection control, would certainly contribute, in addition to the Administration for Inspection Affairs (AIA), to the efficient actions of the Administrative Inspectorate, within its competences in the sectors that are most vulnerable to corruption.

Within the state administration of Montenegro there are three institutions with a specific internal control mechanism: Police Administration (PA), Tax Administration (TA) and Customs Administration (CA). As regards the Police Administration, internal control tasks are carried out by the Ministry of Interior.

These include:

- control over the legality of performing police duties, especially regarding the respect and protection of human rights while performing police duties and using police powers;
- conducting procedures of counterintelligence protection; and

other controls of importance for efficient and lawful work.

An authorized official performing the tasks of internal control prepares, on the basis of conducted procedure (for which there are statutory powers), a written statement, which includes a proposal to eliminate irregularities found, as well as a proposal for the initiation of appropriate procedures in order to establish liability, where irregularities were found during control.

Internal Control Section of the Customs Administration exercises two basic functions: monitoring the implementation of measures aimed at strengthening the integrity of the service, suppression of corruption and implementation of internal controls in connection with the violations of work duties committed by customs staff, as well as initiating disciplinary or other proceedings.

The Internal Control Section of Tax Administration also has at its disposal preventive and repressive mechanisms to detect unethical and illegal acts in order to possibly initiate disciplinary or other proceedings.



No	Measure/activity	Responsible authority	Deadline	Required funds/ Source of financing	Indicator of Results	Indicator of impact
2.1.3.1.	<p>Prepare report on performance of activities from the Strategy of Reform of Public Administration in Montenegro for the period 2011-2016.</p> <p>Prepare Innovated Action Plan for the period 2014-2016.</p>	<p>Ministry of Finance, Ministry of Interior, Human Resources Management Authority and other responsible authorities</p>	<p>December 2013</p>	<p>Budget EUR 1,620 (10 persons, two months, effectively 10% of working hours)</p>	<p>- Report adopted. Report on undertaken measures and activities from the Action Plan on Implementation of AURUM published at the website of the Council for improvement of business environment. Innovated Action Plan prepared (2014-2016).</p>	<p>Number of undertaken measures in comparison with total number of measures envisaged by the Action Plan.</p> <p>Rating of Montenegro improved in reports of international organisations (SIGMA). Assessment of the EC improved within the Progress Report for 2014.</p>
2.1.3.2.	<p>Adopt the new Law on General Administrative Procedure in accordance with European standards and best practices. The new legal solutions will refer to the following:</p> <ul style="list-style-type: none"> <li>- simplification and acceleration of the general administrative procedure;</li> <li>- reduction of procedural costs for all participants in the process;</li> <li>- modernisation of procedural mechanisms of the LAP;</li> <li>- creation of conditions and openness towards the use of modern information and communication</li> </ul>	<p>Ministry of Interior</p>	<p>December 2013  June 2014</p>	<p>Budget (working group consisting of nine persons, effective work of 30% during the month – Draft Law EUR 2,187; Public discussion EUR 3,810; Work of Parliamentary committees EUR 15,000; IPA expert EUR 4,000 one expert – 13</p>	<p>- Proposal for the Law on General Administrative Procedure adopted.  Law adopted.</p>	<p>Normative framework provided for provision of more quality and quicker service, protection of rights of citizens, as well as protection of public interest.</p>

	<p>technologies for provision of administrative services ( so called eGovernment);</p> <ul style="list-style-type: none"> <li>- more efficient protection of both the public interest and individual interests of citizens and legal persons in administrative matters</li> <li>- easier and more complete achievement and protection of both the legality and the rights and freedoms of citizens in the process of direct implementation of regulations in administrative matters.</li> </ul>			working days)		
2.1.3.3.	Determine the training programme and Training Plan for implementation of the new Law on General Administrative Procedure.	Human Resources Management Authority Ministry of Interior	January - December 2014 Following the adoption of the proposal for the law	Funds provided through IPA 2012	Training Programme and Plan adopted. Number of organized trainings and number of attendees.	Prompt training of employees implementing Law on General Administrative Procedure provided, prompt informing of the public and raising awareness of citizens on novelties in exercise of their rights.
2.1.3.4.	Raising awareness of citizens regarding the standards introduced in the new Law on General Administrative Procedure	Ministry of Interior Human Resources Management Authority	January - December 2014 Following the adoption of the proposal for a law Continuously	Funds provided through IPA 2012	Round tables organized. Public discussions organized. Promotional material.	Timely information of the public and raising awareness of citizens themselves about the novelties concerning the exercise of their rights.

2.1.3.5.	<p>Build the organisational and administrative capacities of the Administration for Inspection Affairs with the view to full implementation of provisions of the Law on Civil Servants and State Employees, which refer to the employment procedure</p> <p>-</p> <p>    establish the annual programme of control with special focus on the following:</p> <p>-control of procedure of employment and termination of employment.</p> <p>-control of implementation of provisions referring to promotion system.</p> <p>-Efficiently and timely acting upon complaints from civil servants referring to violations of labour rights and by virtue of labour.</p> <p>- carry out control over work of Human Resources Management Authority in relation to employment procedure.</p>	Ministry of Interior/ Appeal Commission	<p>July 2014 - number of inspectors increased by 6.</p> <p>Annual reports March 2014 and further on.</p>	<p>Budget EUR 7,290</p> <p>Note: in 2014, the amount of annual budget costs for nine employees is EUR 7,290</p>	<p>The number of administrative inspectors increased to nine in total.</p> <p>Annual control programme adopted.</p> <p>Annual Report on the Work of the Administration for Inspection Affairs and the Appeal Commission developed.</p>	<p>Staff capacities of the Administration for Inspection Affairs strengthened.</p> <p>Number of completed controls increased, number of irregularities identified in comparison with the previous period, Number of actions, which were undertaken by the Administration for Inspection Affairs upon complaints; Number of initiated procedures for determination of responsibility on the grounds of performed controls and submitted complaints.</p> <p>Number of regular controls and controls upon complaints submitted upon the employment procedure.</p> <p>Number of regular controls and controls upon complaints submitted upon procedures of</p>
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						promotion and assessment. The EC assessment improved in the Progress Report for 2014.
2.1.3.6.	Determine the methodology of the risk analysis in performance of inspection control, pursuant to provisions of the Law on Inspection Control, with a view to proactive action in prevention and early detection of acts of corruption and other offences with elements of corruption. Performing controls in accordance with determined methodology.	Ministry of Economy, Administration for Inspection Affairs Human Resources Management Authority	First quarter of 2015	Expert support needed (SIGMA) EUR 5,740 (working group, 8 employees, effectively 15 days + donation EUR 2,500)	Methodology determined. The number of records on inspection controls which, besides irregularities, revealed acts of corruption and/or other offences with elements of corruption. Annual report on the work of the Administration for Inspection Affairs, which will contain data on undertaken activities and results achieved by this Administration.	The number of adopted administrative measures on the grounds of inspection control increased in comparison with the previous period. The number of misdemeanour and criminal charges on the grounds of performed controls and submitted complaints increased in comparison with the previous period. Efficiency of the work of the Administration for Inspection Affairs improved.
2.1.3.7.	Provide full transparency in the process of employment and merit-based and result-based promotion within the state bodies, on the grounds of provisions of the Law on Civil Servants and State Employees and the accompanying secondary legislation.	Human Resources Management Authority in cooperation with the Ministry of Interior and	March 2013 First quarter of 2015 and further on	Budget EUR 5,740 Note: in 2013, the amount of the annual budget costs for seven employees is EUR 7,290	Data concerning civil servants and state employees regularly updated in the central human resources records Regular updating of records of internal	System established for the regular submission of data on entry into employment and termination of employment, as well as promotion and assessment of every

	Monitor implementation of provisions on disciplinary responsibility of civil servants and state employees; in order to improve the trust of citizens in the work of the state administration.	other state bodies			labour market: Number of vacancies Number of available civil servants and state employees The number of civil servants and state employees who were promoted The number of civil servants and state employees to whom disciplinary sanctions were imposed.	civil servant and state employee. Number of implemented disciplinary procedures and imposed sanctions. Number of implemented disciplinary procedures with corruptive elements. Number of cases submitted to the prosecutor. The EC assessment improved in the Progress Report for 2014.
2.1.3.8.	Conduct trainings for persons responsible for preparation and implementation of the integrity plans (90 integrity managers).	Administration for Anti – Corruption Initiative in cooperation with the Ministry of Justice	December 2013	Expert assistance provided through IPA 2010 "Support Implementation of the Anti-Corruption Strategy and Action Plan" – EUR 13,000	Number of authorities which established the working groups for adoption of Integrity Plans: The Manual for Integrity Managers developed. Number of appointed and trained integrity managers.	Employees responsible for preparation and implementation of the Integrity Plans enabled to implement both the Risk Analyses and the Integrity Plans.
2.1.3.9.	Adopt the integrity plans in four pilot institutions: Police Administration, Customs Administration, Basic Court in Podgorica and the Supreme Public Prosecutor's Office.	Police Administration Customs Administration Basic Court in	March 2014	Expert assistance provided through IPA 2010 "Support to the Implementation	Risk analysis carried out and the Integrity Plans adopted for the following pilot institutions: Police	Number of adopted Integrity Plans in comparison with the total number of public authorities.

	Adopt the integrity plans in other public authorities, in accordance with the Law on Civil Servants and State Employees.	Podgorica and the Supreme Public Prosecutor's Office, in cooperation with the Administration for Anti – Corruption Initiative Other public authorities	onwards	of the Anti-Corruption Strategy and Action Plan" – EUR 6,750+budget EUR 9,720 (in total thirty employees, two months, and effective work 20%).	Administration, Customs Administration, Basic Court and the Supreme Public Prosecutor's Office.  Number of adopted Integrity Plans.	
2.1.3.10	Make a functional analysis on implementation of the existing internal control mechanisms The analysis will include the existing legal authorisations, organisational structure and administrative capacities of the Police Administration, Tax Administration and Customs Administration, with special emphasis on the competences in implementation of preventive and repressive mechanisms, as well as determined forms of cooperation and data exchange.	Police Administration Tax Administration Customs Administration	June 2014	Budget Expert support needed (TAIEX) EUR 2,700 (in total nine employees, one month, effective work 35%)	Functional analysis made, containing an overview of the current situation regarding the implementation of internal control mechanisms and recommendations for further work.	Normative equality provided regarding authorisations and compatibility of competences of other authorities in the fight against corruption.

**2.1.4 Recommendation: Improve the system of political party funding, ensuring reliable reporting as well as effective supervision and sanctioning powers by an independent authority. Strengthen the capacities of the monitoring bodies (the State Audit Institution (SAI) and the State Election Commission) and ensure a clear division of tasks and cooperation framework. Accounting obligations for political parties should be increased and all in-kind donations should be reported. The recommendations of GRECO should be followed-up.**

### STATE OF PLAY

Great efforts have been made since December 2010 and the adoption of the GRECO Report on the Third Evaluation for Montenegro, to improve the overall legislative and institutional framework for the financing of political parties in Montenegro. Those included the adoption of the new Law on Financing of Political Parties, its amendments, adoption of secondary legislation, and Amendments to the Law on Misdemeanors. Having conducted the first analyses, and having adopted the GRECO report on compliance of Montenegro, in December 2012, it became evident that concrete progress was achieved in this area, which regulated in more details the way of obtaining and providing funds for regular work and election campaigns, as well as the way of controlling the funding and financial operations of political parties, in order to achieve legality and transparency of their operations. Also, in accordance with GRECO recommendation, precise rules for the identification, accounting and reporting of in-kind donations are established and there is a clear obligation for political parties to report all in-kind donations.

Audit of financing political parties was entrusted to the State Audit Institution (SAI) in December 2011, and SAI has conducted the audit of the annual financial reports of political parties in 2011 (for 13 parties) and revision on reports on amounts raised and spent for the recent election campaign held in October 2012, and published it on its website ([www.dri.co.me](http://www.dri.co.me)). An audit of the annual financial reports of political parties for 2012 is ongoing, and it includes the Audit of Annual reports on 22 political parties. After the necessary harmonization of the draft of the Law on Anticorruption Agency with the Law on Prevention of Conflict of Interest, Law on Financing of Political Entities and Election Campaigns, Law on Lobbying and other relevant regulations, jurisdictions of the Agency on anti-corruption, the State Election Commission and SEC shall be clearly defined as well as the available channels for applying for misdemeanor proceedings and criminal complains in case of detecting irregularities and illegalities in this area.

In the future, special attention will be paid to the implementation of adopted provisions, their harmonization with practice in order to meet the remaining partially met GRECO recommendations. This primarily relates to capacity building, institutional and legislative, of the State Audit Institution (SAI) and the State Election Commission (SEC) in order for them to carry out monitoring in the field of financing of political parties in accordance with law and best practices, as well as the practical testing of the sanctioning system in order to verify the proportionality of sanctions, whether they act as a deterrent and how effective they are. In order to ensure uniformity of accounting records, it is necessary to prepare a Rulebook which will regulate the manner of keeping business books of political parties and establish the principles for presenting their revenues, expenses, assets and liabilities, and sources of funds.

Also, an expert was hired within the IPA 2010 project, in order to prepare an analysis of the field of financing of political parties in Montenegro. The analysis will not only deal with the contents of legal standards, but also with the contents of secondary legislation in this field, as well as with the previous results of implementation. As a final result of this activity, the expert will make recommendations for legislative harmonization with the EU and international standards and their future more efficient implementation.

By adopting the Law on the Anti-Corruption Agency, the Agency will assume the responsibility for control over the political parties financing. The Agency will take over employees of the State Electoral Commission as regards the control over the political parties financing and election campaigns.

No.	Measure/activity	Responsible authority	Deadline	Required funds/ Source of financing	Indicator of result	Indicator of impact
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2.1.4.1.	Adopt the Law on Financing of Political Entities and Election Campaigns in accordance with GRECO recommendations for its amendment (clearly defined competencies of SAI and SEC in the implementation of laws, the involvement of independent audit houses as regards the audit of reports' sections, prescribing the duty of third parties to submit the information required upon requests by the competent authorities, defining investigative powers of competent authorities, and the promoted system of sanctions)	Ministry of Finance, in cooperation with the State Audit Institution, State Electorate Commission, Administration for Anti – Corruption Initiative and NGOs	September 2013	Budget (working group consisting in nine persons, effective work of 30% during a month – draft Law EUR 2,187; Public discussion 3,810; Work of Parliamentary committees EUR 15,000; IPA expert EUR 4,000, one expert – 13 working days)	The Law was adopted. GRECO recommendations fulfilled. Strengthened control powers of SEC.	The GRECO report for 2014 providing the number of recommendations accepted NGO report Improved EC's assessment in the Progress Report for 2014 The Law will encompass the provisions of the current Law on Financing of Political Parties and the Law on Financing of Election Campaigns for the President of Montenegro
2.1.4.2.	In accordance with the new Law on Financing of Political Entities and Election Campaigns, adopt the relevant secondary legislation which will regulate the following: - the use of public resources for political subjects' activities and the election campaigns (GRECO recommendation), - the manner of keeping of business books of political entities, and -determine the manner of regular and transparent reporting of revenues, expenditures, assets and liabilities and the sources of funds	Ministry of Finance	December 2013	Budget EUR 3,240 (two persons working group, effective work of two months)	- Adopted secondary legislation, the number and type of secondary legislation acts  - Reports of political entities.	The GRECO report for 2014 providing the number of recommendations accepted NGO report Improved EC's assessment in the Progress Report for 2014 Increased quality of financial management and records (keeping business records) of political parties



	of political entities					
2.1.4.3.	<p>Ensure financial, staff and technical resources for the work of Administrative and Technical Services of State Electoral Commission and State Audit Institution</p> <p>-Amend the Rulebooks on internal Organisation and Job Descriptions of the the State Electoral Commission and the the State Audit Institution which will specify the authorizations and competences of staff (Administrative and Technical Services), in line with the new statutory arrangements from this field</p> <p>- fill in the planned positions in Administrative and Technical Services</p> <p>- Ensure adequate budgetary funds and equipment for the Administrative and Technical Services of the State Electoral Commission and State Audit Institution</p> <p>-draft a specialization plan and continuous training plan in accordance with competences</p>	Ministry of Finance, State Audit Institution, State Electoral Commission	June 2014	Budget EUR 17,010 Note: in 2014, the budget for seven months, expenses for three employees amount to EUR 17,010	<p>- Rulebooks on Internal Organisation and Job Descriptions of the State Electoral Commission and the State Audit Institution passed in accordance with amendments to the Law (total number of employees State Electoral Commission – 2, State Audit Institution – 1)</p> <p>-all positions filled</p> <p>All positions laid down in job descriptions filled</p> <p>The Parliament upheld the budgets of the State Electoral Commission and the State Audit Institution</p> <p>Training programme included in the training programme of the Human Resources Management Authority for 2015</p>	The new Rulebooks will precise more clearly the authorizations and competences of employees (Administrative and Technical Services) in accordance with the new statutory arrangements
2.1.4.4.	Monitor the implementation of the Law on Financing of Political Entities and Election Campaigns	State Electoral Commission	As of January 2015 for 2014 and	No funds necessary	-Prepared and published report by State Electoral Commission and State	NGO reports on the implementation of the Law Improved EC's assessment

	with regard to: reporting obligations, verifications of reports , established irregularities, procedures initiated and sanctions imposed	and State Audit Institution / Anti- corruption Agency <sup>5</sup>	periodically after the elections		Audit Institution / Anti- corruption Agency, The number of controls conducted, The number of irregularities established and sanctions imposed	in the Progress Report for 2014 Improved reporting of political entities.
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**2.1.5 Recommendation: Ensure effective implementation of free access to information rules, inter alia, with regard to sensitive information with economic value. The provisions of the Law on prevailing public interest need to be clarified. Appropriate interaction between the Law on Free Access to Information and the Laws on Protection of Personal Data and on Data Secrecy should be ensured.**

#### STATE OF PLAY

After the analysis on the implementation of the Law on Free Access to Information, made by the European Commission, the Government established a working group to draft a new Law on Free Access to Information, Law on Amendments to the Law on Personal Data Protection and amendments to the Law on Data Confidentiality, in order to harmonize these laws with European standards and harmonize them mutually.

The drafting of the Law on Free Access to Information, was assisted, among others, by representatives of the Venice Commission, whose suggestions and comments contributed to the final text of the law and to the assessment that the law is harmonized with European standards and that these three laws are mutually harmonised as well.

Representatives of the twinning project from Slovenia, Austria and Germany participated in the drafting of the Law on Amendments to the Law on Personal Data Protection and Amendments to the Law on Data Confidentiality. They were of opinion that the amendments to the Law on Protection of Personal Data achieved full compliance of the Law on Protection of Personal Data with the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and that harmonization of these three laws was achieved: Law on Free Access to Information, Law on Amendments to the Law on the Protection of Personal Data and Amendments to the Law on Data Confidentiality, adopted by the Parliament in July 2012.

Law on Free Access to Information introduces second instance proceedings; defines forms of misdemeanor responsibility and expands misdemeanor responsibilities, further specifies the definitions of authorities and expands definitions so as to include all legal entities that are wholly or partly financed from the budget of MNE or where the state or local self-governments have any percentage of ownership, further specifies the definitions of authorities and expands them to all legal entities engaged in an activity of public interest, including power supply, water supply, or work with public assets including concessions; establishes the obligation of proactive disclosure of information of importance, as well as the obligation of proactive disclosure of all those data which were declassified at websites of institutions that own them, in accordance with the Law. The proposal for a law stipulates that the test of harmfulness of disclosure of information is made under the principle of proportionality of the possible harm to the public interest because of non-disclosure of information and the potential harm or risk to the legitimate interest of disclosure of the requested information.

<sup>5</sup> Until the start of operations of the Anti-Corruption Agency, the implementation of the Law on Financing of Political Parties will be monitored by SEC

Law on Free Access to Information provided that inspection control over the enforcement of the law is conducted by the ministry responsible for administrative affairs, while decision taking in second instance proceedings is entrusted to the Personal Data Protection Agency.

Law on Free Access to Information provided that the situation in the field of access to information is monitored by the Personal Data Protection Agency. It was thus provided that the Personal Data Protection and Free Access to Information Agency keeps an information system that provides a database on:

- government authorities,
- requests for access to information, by applicants, government authorities, types of information and the requested manners to access information,
- acts of authorities by requests for access to information,
- complaints against acts by requests for access to information, by applicants and authorities,
- actions against the decisions upon requests for access to information, by complainants and the respondent authorities,
- court rulings on actions against the decisions upon requests for access to information,
- measures against government authorities for non-compliance with the law,

The contents and method of keeping the information system will be prescribed by the ministry responsible for state administration affairs in a secondary legislation.

The Law also provides that the Council of the Agency is obliged, upon request and at least once a year, to submit to the Parliament of MNE a report on the situation in the field of access to information.

Law on Free Access to Information (Art. 7) provides that access to information is of public interest and may be limited only in order to protect interests in cases prescribed by law. Law on Protection of Personal Data (Art. 10, paragraph 2, item 4) stipulates that the processing of personal data is carried out without the consent of the person if it is necessary to carry out work of public interest or in the exercise of public authorizations falling within the scope of work and responsibilities of the keeper of the personal data filing system or a third party, or users of personal data. Interaction between these laws on free access to information and the Law on Protection of Personal Data was ensured in this manner.

For the purpose of efficient and quality implementation of these laws, it is necessary to further train the staff responsible for taking decisions upon requests for free access to information, so as to make sure information are published in due time, where legal grounds to do so exist.

A special quality of the legal solutions from Articles 14, 15, 16, and 17 is reflected in the obligations of authorities from which the information is sought and the Agency, with regard to appeal procedures. The restriction of access to information is regulated by Article 14 of the Law on Free Access to Information. The authority from which the information is sought, may limit access to information if the disclosure of the information would significantly jeopardize the interest under Article 14, i.e. if there is a possibility that disclosure of information would cause harmful effects to the interest that is of greater importance than the public interest to know that information. If there is an over-riding public interest under Article 17, the information must be disclosed. An authority is obliged to provide access to information or a part of the information referred to in Article 14 of this Law, when there is an overwhelming public interest in its disclosure.

When deciding on the protection of trade and other economic interests with regard to a disclosure relating to competition protection and trade secrets in connection with intellectual property rights, the first-instance authorities from which the information is sought and in particular the Agency must, in the appeal procedure, take into account that corruption or any other illegal activity is not hidden under the umbrella of protecting the economic interests, and the other side, not to jeopardize the economic interests of vital importance for the development of the state and investors, particularly in the area of intellectual property

In cases of the application of the harmfulness test under Article 16 it is necessary to carefully assess whether the public interest in disclosure is stronger than the

potential harm that could be caused by disclosure. For example, the public interest in disclosure of the information would be very strong in situations related to the documents from which it could be determined that there is corruption, non-compliance with regulations, unlawful use of public funds and abuse of authority in the exercise of public functions, that a criminal offense was committed or when there are reasons to contest the court ruling, illegally obtaining or spending of public funds, endangering public safety, threat to life, threats to public health, putting environment to risk.

The concept of public interest can not in any case be prescribed in detail in the Law, as it occurs in many different forms, and it is necessary to carefully weigh the balance in every case. The first instance authority and the Agency must be trained and capable to properly apply these provisions of the Law, which means that the decisions made should include a quality justification of the attitude prevailing in decision-making.

No.	Measure/activity	Responsible authority	Deadline	Required funds/ Source of financing	Indicator of result	Indicator of impact
2.1.5.1.	Carry out trainings for the employees responsible for the decision-making upon requests for free access to information in line with case law and international standards, and pursuant to the annual programme of the HRA.	HRA and the Personal Data Protection and Free Access to Information Agency	January - December 2013 January - December 2014	Budget Expert assistance needed (TAIEX) EUR 1,950 (programme implementation in 2013, total of three lectures, cost per lecture EUR 650)	The number and type of trainings conducted -The number and structure of participants	Employees trained to act in line with the provisions of the Law
2.1.5.2.	Monitor the implementation of the Law on Free Access to Information  -Regularly inform the public on the application of the Law on Free Access to Information, as well as about the rights defined in this Law	Personal Data Protection and Free Access to Information Agency	December 2013 and once a year in the fourth quarter	Budget EUR 3,240 Note: in 2013 the annual budgetary costs per employee are EUR 810	Annual reports on the application of the Law containing all the information from Articles 12, 39, 40 and 41 of the Law.	The relationship between the number of requests received and: - The number of decisions in the first instance; - The number of requests resolved and the number of requests that have not been resolved within the prescribed period; - The number and

						submitted, rejected and / or dismissed and adopted appeals; - The number claims submitted to the Administrative Court, and the number of annulled decisions.
2.1.5.3.	Prepare an analysis of implementation of the Law on Free Access to Information, with special emphasis on: 1. Application of the criteria used for taking decisions concerning the public interest to disclose information or deny access to information 2. procedures initiated and sanctions imposed 3. application of exceptions from the principle of publicity, especially as regards the criterion of "foreign and economic policy"	Personal Data Protection and Free Access to Information Agency	Second quarter of 2015 Two years after the beginning of implementation	Budget Expert support needed in preparing the analysis EUR 4,120 (2 employees / one month effectively EUR 1,620 + the donation needed EUR 2,500)	Analysis including the possible recommendations to amend the text of the law drafted	The number of appeals upon decisions on the denial of access to information under Article 14 of the Law, as well as the overall number of negative decisions compared to the previous period. In preparing the analysis the following recommendations taken into account: - EC recommendations from the annual Progress Report for MNE, - NGO reports - Recommendations of relevant international organizations

**2.1.6 Recommendation: The control system for public procurement is to be strengthened as well as the supervision of implementation of awarded contracts. Anti-corruption measures at local government level need to be stepped up.**

#### STATE OF PLAY

Public procurement is treated in detail in Chapter 5, while AP for chapter 23 treated only anti-corruption measures in this field.  
In the area of public procurement, the 2011-2014 Strategy for the Development of Public Procurement System has been adopted. Also, a new Rulebook on the

internal organization and job descriptions of the Public Procurement Administration (PPA) has been adopted.

The Help Desk of the PPA for advisory and consultancy services has been promoted, which resulted in many direct and telephone consultations on a daily basis. The procedure for reporting corruption to the PPA by third parties has also been promoted, and a special telephone line for reporting corruption, 020 245 798, has been activated. Access to all relevant documents has been enabled by placing them on the PPA's website. The PPA's website is regularly updated, on a daily basis, and all relevant documents are published on the website [www.ujn.gov.me](http://www.ujn.gov.me), as are various notifications, such as: public procurement plans, secondary legislation, list of contracting authorities, list of public procurement officers, list of bidders, opinion of the Public Procurement Administration related to specific issues regarding the Law on Public Procurement, information related to trainings and taking the state license exam for public procurement officers, as well as daily publication of invitations to tender, decisions, and contracts of contracting authorities. A new PPA's portal has been developed, [www.ujn.gov.me](http://www.ujn.gov.me), and the electronic public procurement system has been established there.

The new Law on Public Procurement started to be implemented as of 1 January 2012. Pursuant to the new Law, PPA is tasked with reporting concerning the implementation of contracts once a year.

Public procurement is a special area in the AP and as for the monitoring and control of public procurement at the local level, public procurement is implemented, monitored and controlled in the same manner as public procurement at the central level, i.e. it is subject to the same regulations.

No	Measure/activity	Responsible authority	Deadline	Required funds/ Source of financing	Indicator of result	Indicator of impact
2.1.6.1	Adopt amendments to the Law on Public Procurement which will include: <ul style="list-style-type: none"> <li>- Changes to the manner of appointing the Chairman and members of the State Commission for the Control of Public Procurement Procedures (appointment by the Parliament),</li> <li>-the obligation for at least one member of the Commission for bid opening and valuation to have a certificate of passed state license exam to cover public procurement related duties,</li> <li>- legal grounds to adopt a rulebook which would govern clear criteria</li> </ul>	MF and Public Procurement Administration	December 2013	Budget EUR 23,913 (working group containing seven persons, effective work one month – draft Law EUR 5,103; Public discussion EUR 3,810; Parliamentary Committees' work EUR 15,000)	Amendments to the Law adopted	Reduced number of irregularities in public procurement procedures compared to the previous year

	<p>for the procedure and manner of appointing members of the Commission for bid opening and valuation and their authorizations and responsibilities,</p> <ul style="list-style-type: none"> <li>- Authorize inspectors of the Administration for Inspection Affairs to exercise control over contracts awarded,</li> <li>- Introducing negative reference checks on bidders, including a prohibition to bidders to participate in a public procurement procedure if they had violated deadlines or other provisions of the public procurement contract in the past,</li> <li>- The system of control of conflict of interests in public procurement procedure improved,</li> <li>- Records system kept by the contracting authorities and the contents of PPA's reports on public procurement improved.</li> </ul>					
2.1.6.2.	Adopted secondary legislation to implement new provisions in the Law on Public Procurement	MF, PPA, Commission for Control of Public Procurement (CCPPP)	June 2014	Budget EUR 2,187 (3 employees, one month effectively)	-The number and type of secondary legislation adopted	
2.1.6.3.	Monitor the improvement of the system of control of public procurement: establish a methodology of risk analysis in the control, with the aim	PPA in cooperation with Administration for Inspection Affairs	Once a year June 2013 June 2014	Budget EUR 19,440 Note: in 2014 the annual budgetary costs	Established methodology The number of controls on the basis of which irregularities have been established and corruptive	The percentage of institutions in which the control was conducted on an annual basis in

	<p>of proactive action in the prevention and early detection of corruptive acts and other acts with corruption elements.</p> <p>Perform control in accordance with established methodology Prepare an annual report of PPA</p>			for two employees	<p>acts and other acts with elements of corruption discovered.</p> <p>Prepared annual report of PPA which contains the data on:</p> <ul style="list-style-type: none"> <li>-contracts concluded and their implementation:</li> <li>-The number of contracts whose implementation is checked;</li> <li>-The number of contracts in which the violation of the implementations has been discovered;</li> <li>- The number of contracts terminated;</li> <li>-The number and type of sanctions imposed;</li> <li>- The number and type of penalties imposed;</li> <li>-The number of bidders to whom the participation in PP procedures has been temporarily banned.</li> </ul>	<p>relation to the total number of contractors;</p> <p>The number of irregularities compared to the previous period</p>
2.1.6.4.	<p>Capacities of competent bodies to supervise the execution of awarded contracts enhanced by increasing the number of authorized employees and the number of inspection controls</p>	PPA	January 2014	<p>Budget – additional funds needed for two new employees EUR 19,440 Note: in 2013 the annual budgetary costs</p>	<p>-The number of authorized employees for inspection control increased</p>	<p>Capabilities of PP officials enhanced, The number of controls conducted increased, The number of imposed sanctions compared to the</p>



				per employee amount to EUR 9,720		number of controls exercised, -Reduced percentage of established irregularities
2.1.6.5.	Adopt the annual plan and programme of trainings for employees participating in the public procurement process and stipulate the manner of taking exams for the area of public procurement, Identify target groups for training and involve employees at the local level, Conduct training in accordance with established training plan and organize the exam for public procurement	PPA in cooperation with the HRA	As of January 2014, four times a year	Budget EUR 9,720 (working group up to six persons, effective work two months)	- Annual training plan and programme adopted, Exam taking plan and programme stipulated. The number of trainings and participants; - The percentage of trainees compared to the total number of employees for PP; - The numbers of exams organized; - The number of candidates who have passed the vocational exam; - Keeping records of exams passed.	

**2.1.7 Recommendation: Develop specific measures to tackle corruption in particularly vulnerable areas, such as those identified in the findings of the risk assessment of July 2011. For these areas, separate Action Plans could be envisaged. Ensure that risks assessments are being used systematically.**

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### STATE OF PLAY

The areas of particular risk were defined in the 2010-2014 Strategy for the Fight against Corruption and Organized Crime, by a consensus of the members of the Working Group that worked on this document. These are: privatization, public procurement, urban planning, education, health care, and local self-government. Public procurement is a separate area in this AP, and with regard to monitoring and controlling public procurements at the local level, they are implemented, monitored and controlled in the same manner as the public procurements at the central level, i.e. they are subject to the same regulations.

The Strategy was accompanied by the 2011-2012 Action Plan for its implementation, as an operational document, while the new Action Plan for the period 2013-2014 was adopted in May 2013. This AP was developed by representatives of the state and the NGO sector, whose scope of work covers the fields defined in the Strategy for the Fight against Corruption and Organized Crime. ([http://antikorupcija.me/en/index.php?option=com\\_phocadownload&view=category&id=7:&Itemid=91](http://antikorupcija.me/en/index.php?option=com_phocadownload&view=category&id=7:&Itemid=91))

In order to avoid duplication of administrative duties, writing a number of APs and to achieve greater coordination and efficiency in meeting the planned measures, areas of particular risk have been already covered in detail by the 2013-2014 AP for the implementation of the Strategy for the Fight against Corruption and Organized Crime (16 measures related to privatization, 7 measures related to public procurement, 11 measures related to urban planning, 14 measures related to education, 13 measures related to health care, and 9 measures related to local self-government), whereas this AP will also include the measures to enable mechanisms of monitoring of the results achieved as regards deterring from committing corruption in these areas. Depending on the need for further elaboration of the measures envisaged in 2013-2014 AP for the areas of particular risk, the line ministries and authorities can adopt special sectoral APs, for example in the field of education as adopted by the Ministry of Education.

As the UNODC report “Corruption in Montenegro – Bribery as Experienced by the Population” identified police activities as a potential risk in terms of corruption, the 2013-2014 AP for the implementation of the Strategy for the Fight against Corruption and Organized Crime Contains special measures to prevent corruption in the police (9 measures), and this AP will focus on measures which will enable the monitoring of measurable results in the area of combating corruption in the police.

Please note that the semi-annual report on the implementation of the national AP will be an integral part of the report on the implementation of the Action Plan for Chapter 23 (see the introduction for 211).

As for the concrete results in the detection and prosecution of corruption offenses in these areas, they will be monitored through the Tripartite Commission’s report which is an integral part of the report on the implementation of the national AP from 2013 to 2014.

No	Measure/activity	Responsible authority	Deadline	Required funds/Source of financing	Indicator of result	Indicator of impact
2.1.7.1	Prepare an impact assessment analysis in the areas of particular risk (privatisation, public procurement, urban planning, education, health care, and local self-government)	DACI/Anti-corruption Agency <sup>[1]</sup> /Secretariat of the NC and	First quarter of 2015.	Budget EUR 4,050 (Secretariat of the NC, 5 employees, one month	Adopted impact assessment analysis based on data from the semi-annual reports on the implementation of the AP	Identified measures and achieved progress and defined recommendations for

<sup>[1]</sup>Up to the beginning of Anti-corruption Agency's work, supervision over the implementation of the Strategy and AP will be performed by the DACI

	procurement, urban planning, education, health care, local self-government and police) on the basis of the Report on Implementation of the Action Plan Measures for the Implementation of the Strategy for 2013-2014.	Tripartite Commission		effectively)	with special emphasis on the parts regarding areas of particular risk (privatisation, public procurement, urban planning, education, health care, local self-government and police) including the Tripartite Commission report that contains information about the analysis of the crimes in this area	further improvement of the situation and elimination of the risk.  The Risk Analysis prepared as a starting point for further strategic planning of activities in the fight against corruption in areas of particular risk.
<b>PRIVATISATION</b>						
2.1.7.2.	Analyse and improve the legal framework related to the privatization process	ME	March 2014	Budget EUR 26,100 (10 employees effectively per month, Analysis and draft Law EUR 7,290; Public discussion EUR 3,810; Costs of Parliamentary Committees EUR 15,000)	-Analysis of the Law on Privatization, Law on Ownership and Management Transformation and others related to the privatization process drafted and published, including the recommendations for improvement, -prepared proposals for amendments to the laws, -adopted amendments to the laws in accordance with the analysis.	Reduced number of irregularities in the privatization procedures
2.1.7.3.	Improve the system to control investments into privatized companies and compliance with contractual obligations	Privatization and Capital Projects Council	Starting from July 2013, twice a year	Budget EUR 14,580 (nine-member working group, effective work for two months)	- the system for the control of investments and execution of contractual obligations on an annual basis or in accordance with the obligations under the contract established, - Controls plan of privatized	The number of claims for breach of contract on privatization; The number of terminated privatization contracts; The number of cases

					companies drafted, - The number of developed and published reports, - Database of privatized companies set up, - The number of breached privatization contracts, - The number and type of activated protection mechanisms from privatization contracts.	forwarded to police and prosecution office; The number of final verdicts in cases where criminal offenses existed <sup>6</sup>
<b>URBAN PLANNING</b>						
2.1.7.4.	Efficiently monitor the system for reporting illegal construction and the establishment of clear and precise procedures for dealing with complaints and reports of citizens related to the work of inspection	AIA	Starting from July 2013, twice a year	Budget EUR 2,916 (annually EUR 324, two employees, at one fifth of the working hours)	- Number of reports of citizens of illegal construction in relation to the number of processed reports, - The percentage of reports processed compared to the total number of reports, - Procedures for handling complaints of citizens related to the work of inspections set up, - The number of complaints related to the work of inspections.	The number of reports by citizens increased. The number of processed reports increased. The number of complaints of citizens related to the work of inspections decreased
2.1.7.5.	Reporting of criminal offenses: building a structure without a building permit and unlawful connection of construction site to	SPPO and the High Court	Starting from July 2013, twice a year	Budget EUR 1,620 (working group consisting of up to 4 persons / 1 month effective work)	A report drafted that contains: - the number of criminal charges filed, - the number of indictments raised, - the number of adjudicated	The number of indictments increased compared to the number of submitted criminal charges. The number of final

<sup>6</sup> As regards the concrete results in discovering and prosecuting the criminal offenses of corruption in these areas, they will be monitored through a report of the Tripartite Commission, which is an integral part of the report on the implementation of the national 2013-2014 AP.

	technical infrastructure				cases and types of decisions, - the number of final judicial decisions.	judicial decisions increased.
2.1.7.6.	Establish and regularly publish a list of investors and contractors which have been found to violate regulations governing the field of spatial planning	AIA	Starting from July 2013, twice a year	Budget, EUR 810.00 (Regular activities of one employee during one month)	The list drawn up and made public on the website of the AIA.	The number of investors violating the regulations in the field of spatial planning reduced.
<b>EDUCATION</b>						
2.1.7.7.	Establish a transparent system of control of accreditation and licensing of educational institutions	Ministry of Education Higher Education Council	Starting from July 2013, twice a year	Budget, EUR 810.00 (Regular activities of one employee during one month)	Make public all issued accreditations with a report on compliance with the requirements for the issuance thereof, - number of licensed educational institutions, - number of educational institutions that have lost their license, - number of implemented controls of institutions whose license had expired.	The number of irregularities in the work of educational institutions reduced.
2.1.7.8.	Improve online databases in all higher education institutions (all faculties within the University of Montenegro) concerning the employed academic staff and open them to the public	University of Montenegro	Starting from July 2013, twice a year	Budget, EUR 810.00 (Regular activities of one employee during one month)	Database in all higher education institutions developed and made publicly accessible. It contains: - CV of each hired lecturer, - class load per lecturer, - annual self-evaluation of educational	Transparent data on the teaching personnel of the University of Montenegro.

					institutions and external evaluation by the Education Inspectorate. - evaluation of lecturers by students per semester, in accordance with the decision of the authorities.	
2.1.7.9.	Publish annual financial statements of the University of Montenegro and university units at the website of the University of Montenegro	University of Montenegro	Starting from July 2013, twice a year	Budget, EUR 810.00 (Regular activities of one employee during one month)	The number of published reports at the University of Montenegro website, which in addition to standard items, include reports on revenues from profitable activities of the University and its units	The level of financial reporting transparency increased. The number and type of sanctions against persons responsible for established irregularities.
<b>HEALTH CARE</b>						
2.1.7.10.	Promote the Code of Ethics of Chamber of Physicians and organize trainings for health care professionals on the application of the provisions of the Code of Ethics Monitor adherence to the Code of Ethics	Chamber of Physicians	Starting from July 2013, twice a year	Budget, EUR 810.00 (Regular activities of one employee during one month)	- number of trainings; - number of participants. - number of conducted info campaigns; - number of TV shows; - Code of Ethics published on the websites of the MH, Chamber of Physicians and Public Health Institute; - number of disciplinary proceedings; - number of health care	The provisions of the Code of Ethics are respected and applied; increased trust of citizens.

					workers who have violated the Code of Ethics.	
2.1.7.11.	Regularly publish reports on public procurement in the health sector	MH, PPA, SCCPPP	Starting from July 2013, twice a year	Budget EUR 2,430 (working group of up to three persons / one month effective work)	<ul style="list-style-type: none"> <li>- Annual report on public procurement in the health sector drafted and made public;</li> <li>- The number of irregularities found by the inspectors for public procurement;</li> <li>- The number of decisions cancelled by the Commission.</li> </ul>	The number of irregularities in public procurement in the health sector reduced.
<b>LOCAL SELF-GOVERNMENT</b>						
2.1.7.12.	Prepare, adopt and monitor the implementation of action plan to combat corruption for each local self-government unit, based on the Model of harmonized action plan to combat corruption in local self-government (2013-2014). The strategic objectives are established by the model, which are used to further elaborate measures in the AP at the local level: -Increased level of	Local self-government units, Ministry of Interior - Commission for monitoring the implementation of the Action Plan to combat corruption in local self-governments	December 2013	Budget of local self-government units EUR 40,500 (a total of 50 employees – two per local self-government + 6 Ministry of Interior, AACI, Association of municipalities, 1 month effectively)	<ul style="list-style-type: none"> <li>- The number of adopted action plans;</li> <li>- The number of reports;</li> <li>-Promoted internal and external control of work of local self-government</li> <li>-Strengthening the integrity of local self-government units and implementation of ethical standards in local self-government</li> <li>-Creating conditions and encouraging civil and private sector to engage in the fight against corruption at the local level;</li> </ul>	An increased degree of responsibility and professionalism in the work of local self-governments Improved transparency in the process of planning, adopting regulations and their implementation with respect to the participatory principle



	responsibility and professionalism of local self-government's work -Improved transparency in the planning process, developing documents and their implementation, with respect to the participatory principle				- Publish all the data on donations, sponsorships, and subventions on the web-pages of local self-governments	
2.1.7.13.	Establish transparent procedures on public procurements in line with the Law on Public Procurements	Local self-government units Ministry of Interior - Commission for monitoring the implementation of the Action Plan to combat corruption in local self-governments PPA	Starting from July 2013 – once a year	Budget of local self-government units 22 municipalities, three employees each, EUR 10,692	-Report on the analysis and audit of public procurements (from the aspect of risks of corruption) - Publish all the contracts on public procurements on the web-pages of local self-governments.	The number of irregularities in public procurement procedures at the local level reduced.
2.1.7.14.	Carry out audits by the SAI and an independent audit institution in each of the local self-government units	SAI, Ministry of Interior- Commission for monitoring the implementation of the Action Plan to combat corruption in local self-governments	Starting from January 2014, once a year	Local self-government units budget, hiring an independent auditor for 20 municipalities – EUR 300,000 annually (audit per municipality EUR 15,000, 20 out of 22 municipalities)	Audit conducted once a year by the SAI and another external audit institution selected under the public procurement procedure  Audit reports published on websites of municipalities	80% of audits conducted by the SAI and external audit institutions

**POLICE**

2.1.7.15.	Conduct internal control of work of Police Administration	Ministry of Interior and Supreme Public Prosecutor's Office	Starting from July 2013, twice a year	Budget, a total of 23 employees, EUR 331,200 annually	Prepared and published semi-annual report containing: -the number of cases on the basis of reports and ex-officio; -the number of citizens' reports of cases related to the corruption of PA employees; -the number of initiated disciplinary procedures on the basis of internal control reports; -the number and type of imposed disciplinary sanctions; -the number of investigations initiated against PA employees on the basis of internal control reports.	Increased number of indictments compared to the number of filed criminal charges. Increased number of final judicial decisions.
2.1.7.16.	Investigate the reports of corruption in the Ministry of Interior and PA	Ministry of Interior, Supreme Public Prosecutor's Office, High Court, Police Administration	Starting from July 2013, twice a year	Budget, four employees – EUR 76,800 annually	-Adopt the Amendments to the Law on Internal Affairs; The number of reports submitted by citizens, legal persons, NGOs, media and ex-officio, with regard to corruption in the Ministry of Interior and PA, Type of decisions made	The annual report on work of the Ministry of Interior and PA establishing a reduced number of irregularities in the work of personnel

					<p>under reports filed, The number of investigations initiated under reports The number of indictments The number of final judicial decisions</p>	
2.1.7.17.	Implement measures to combat corruption at the high level in the Ministry of Interior and PA	Ministry of Interior, Supreme Public Prosecutor's Office, High Court, Police Administration	Starting from July 2013, twice a year	Budget, four employees – EUR 76,800 annually	<ul style="list-style-type: none"> <li>- The number of investigations initiated for high-level corruption in the Ministry of Interior and PA;</li> <li>- The number of indictments raised;</li> <li>- The number of final judicial decisions.</li> </ul>	Public opinion poll showing an increased public confidence in the work of Ministry of Interior and PA employees
2.1.7.18.	Implement continuous campaigns on the manner of reporting corruption and the measures for protection of citizens reporting corruption	PA, Supreme Public Prosecutor's Office	Starting from July 2013, twice a year	Budget, four employees – EUR 76,800 annually	<ul style="list-style-type: none"> <li>- The number of campaigns led;</li> <li>- The number of corruption cases reported by citizens, NGOs, and the media;</li> <li>- The number and type of decisions made upon reports of citizens, NGOs, and the media;</li> <li>- The number of investigations compared to the number of cases reported.</li> </ul>	An increased number of detected cases of corruption on the basis of reports by citizens, NGOs and the media

**2.1.8 Recommendation: Strengthen the Parliament's role in fighting corruption by stepping up supervision of the executive. The Parliament should also pay specific attention to anti-corruption issues when revising and improving the legal framework. Ensure a thorough integrity system within the Parliament.**

#### STATE OF PLAY

As regards the functioning of the Parliament and its legislative and supervisory role in matters involving the rule of law, international reports include an assessment that progress has been made in this regard. Implementation of the recently adopted legislation on elections has begun, and the professional and administrative capacities of the Parliament have been strengthened.

The Parliament has amended its Rules of Procedure in May 2012. The new Rules of Procedure provide, inter alia, for the establishment of an Independent Parliamentary Committee on Anti-Corruption. Its key responsibilities include monitoring and analysis of work of state authorities in the fight against corruption and organized crime, monitoring the implementation of laws relating to the fight against corruption and organized crime, and proposing amendments thereto, as well as proposing additional measures to improve strategies, action plans and other documents. A political agreement was reached, according to which the Committee on Anti-Corruption will be chaired by a representative of the opposition parties.

With a view to further strengthening the preventive role of the Parliament in the fight against corruption, there should be more intensive use of the mechanisms that are available on the basis of the new Parliamentary Rules of Procedure for the control of the executive branch of power. A very important tool for achieving this goal is certainly the possibility of citizens to file petitions to the newly-created Committee on Anti-Corruption.

It is necessary to undertake further efforts to promote administrative capacities in order for the Parliament to be prepared for the obligations that will arise from the continuation of the integration processes, particularly with regard to the ability to harmonize national legislation with the EU acquis.

As regards the prevention of corruption among the members of Parliament, the Code of Ethics should include the best standards and practice, and primarily GRECO recommendations from the IV round of evaluation. Once the Code of Ethics has been adopted, its application should be adequately monitored by an independent body that would impose potential sanctions for non-compliance.

The immunity of MPs is regulated by the Constitution and Rules of Procedure of the Parliament of Montenegro. Article 86 of the Constitution stipulates that Members of the Parliament shall enjoy immunity and that Members of the Parliament shall not be called to criminal or other account or detained because of the expressed opinion or vote in the performance of his/her duty as a Member of the Parliament. No penal action shall be taken against and no detention shall be assigned to a Member of the Parliament, without the consent of the Parliament, unless the Member has been caught performing a criminal offense for which there is a prescribed sentence of over five years of imprisonment. According to Article 58 of the Rules of Procedure, a request for permission to initiate criminal proceedings against or arrest a Member of the Parliament shall be submitted by the Speaker of the Parliament to the Administrative Committee. The Committee shall report its proposal, as a rule, at the first subsequent session of the Parliament, which, under the Constitution, shall have the authority to decide on the immunity rights, by a majority vote of MPs present at the session that is attended by more than half of MPs.

No	Measure/activity	Responsible authority	Deadline	Required funds/ Source of financing	Indicator of result	Indicator of impact
2.1.8.1	Provide for efficient application of all control mechanisms of the Parliament of Montenegro	The Service of the Parliament	Starting from December 2013, once a year	Budget EUR 4,860 (12-person working group)	Annual report on the application of control mechanisms which contains data on:	

				/ effective work 15 days)	the number of submitted and approved requests for holding consultative hearings and number of interviewed persons; - the number of submitted and approved requests for holding control hearings and number of interviewed persons; -the number of submitted and approved requests for launching parliamentary investigation, number of meetings of inquiry committees held and number of interviewed persons; -the number of submitted and considered interpellations concerning the work of the Government; -the number of proposed and adopted conclusions.	
2.1.8.2	Prepare a report on the work of the Committee on Anti-Corruption Monitor actions taken by public authorities upon complaints filed by citizens to the Parliamentary Committee on Anti-Corruption	Committee on Anti-corruption	Starting from December 2013, once a year	Budget EUR 405 (Regular activities of an employee for 15 days)	Annual report on the work of the Committee which contains: the number of petitions filed by citizens; the number of statements provided by public authorities; the number and type of activities taken upon citizens' petitions by public authorities. - information on state	Strengthened role of the Committee on Anti-Corruption in the fight against corruption through increased efficiency and transparency in the work of the Committee

				<p>authorities, institutions, organizations and bodies for fight against corruption and organized crime that have been analyzed in the reporting period;</p> <ul style="list-style-type: none"> <li>- data on examined issues and problems in implementation of laws regarding fight against corruption and organized crime and proposals for their amendments;</li> <li>- proposals for additional measures aimed at improving strategies, action plans and other documents concerning the fight against corruption and organized crime;</li> <li>- data on analyzed citizens' complaints, with a breakdown of actions taken.</li> </ul> <p>The number and types of laws and other legal acts that have been modified as a result of the use of control mechanisms of the Parliament;</p> <ul style="list-style-type: none"> <li>-The number of persons against whom appropriate procedures were initiated as a result of using the control function of the Parliament.</li> </ul>	
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2.1.8.3.	Adopt the Code of Ethics of MPs which will contain - clear guidelines to MPs on conflict of interest, lobbying and other related areas in accordance with best practice examples and GRECO recommendations - the structure and composition of the body for monitoring the compliance with provisions of the Code	Parliament of MNE in cooperation with the civil sector	December 2013	Budget EUR 405 (Regular activities of an employee for 15 days)	Code of Ethics of MPs adopted	
2.1.8.4.	Establish a body for monitoring compliance with provisions of the Code	Parliament of MNE in cooperation with the civil sector	Starting from March 2014 once a year	Budget EUR 3,402 (7-person working group / effective work 15 days)	Body composed of representatives of the parliamentary committees, NGOs and academic community established Annual report on monitoring the compliance with the Code drawn up, including data on the measures taken to sanction violations of the Code's provisions	Reduced number of violations of the Law on Prevention of Conflict of Interest and the Law on Lobbying by comparison with the previous period
2.1.8.5.	Prepare an Integrity Plan for the Parliament and regularly monitor its implementation	Parliament of MNE	June 2014 Following the adoption, reporting once a year	Budget EUR 810.00 (Regular activities of an employee in the duration of one month)	Integrity plan adopted Employee in charge of preparing the Report on the implementation of the Integrity Plan designated.	Employees responsible to draft and implement integrity plans trained to conduct risk analyses and draft integrity plans.

**2.1.9 Recommendation: Ensure that NGOs are involved in the anticorruption agenda.**

2.1.9.1	Conduct joint campaigns with the aim of fostering greater and more efficient participation of citizens in the fight against corruption	AACI/Anti-corruption Agency, in cooperation with NGOs	Starting from July 2013, twice a year	Budget	The number of joint activities implemented	Increased number of reports from citizens by comparison with the previous period
2.1.9.2	Regularly report on the participation of NGO representatives in the work of working groups established by state authorities and in organized public debates and roundtable discussions on the draft laws	Office for Cooperation with NGOs in cooperation with the line ministries	Starting from July 2013, twice a year	Budget	The number of NGO representatives in working bodies at the local and national level, and the level for preparing anti-corruption policies - The number of public debates and roundtable discussions organized.	Increased involvement of NGO representatives into the working groups established by state authorities Increased monitoring over the work and work transparency of the working bodies for drafting anti-corruption policies Contribution to the quality of anti-corruption public policies
2.1.9.3	Include NGO representatives in the Anti-corruption Committee, in line with set rules and procedures	Parliament of MNE Anti-corruption Committee	Starting from July 2013, once a year	Budget	- The number of NGO representatives included in the work of the Committee	More efficient monitoring of the work of all the bodies in charge of the fight against corruption
2.1.9.4	Promote reports of relevant NGOs dealing with issues of corruption and anti-corruption activities	Ministries State authorities	Starting from July 2013, twice a year	Budget	The number of NGO reports posted on the websites of state authorities The number of round tables, debates and panel discussions that promoted NGO reports	Increased awareness of citizens on various issues related to the fight against corruption Increased quality of information on various issues related to the fight against corruption



2.1.9.5	Organize joint training programmes for civil servants as regards the issues of the fight against corruption	AACI HRA in cooperation with NGOs	Starting from July 2013, twice a year	Budget	The number of joint trainings and seminars The number of NGOs with which the cooperation has been established The number of trainees	A larger degree of training of civil servants on various topics in the field of fight against corruption.

## 2.2. REPRESSIVE ACTIVITIES AGAINST CORRUPTION

### 2.2.1 Recommendation: Ensure independent, effective specialised investigation/prosecution bodies, in particular through:

**OBJECTIVE 1: Constitutional and legal amendments strengthening the independence of the judiciary and to protect all investigative bodies from (potential) political pressure.**

Regarding mentioned recommendation of European Commission which refers to amendments of the Constitution and laws in order to strengthen independence of judiciary and protect all investigative authorities from possible political pressure, measures are stated in the part of the Action plan „Strengthening the independence of judiciary“ within objective 1: „Strengthening the independence of judiciary through independent elections of Judicial Council and Prosecutorial Council and establishing transparent and objective system of election and promotion of judges and public prosecutors.“, measure number. 1.1.

**OBJECTIVE 2: Provision of adequate resources (financial resources, staffing etc) to all investigation and judicial authorities involved in the fight against corruption, making corruption cases priority matters. A review of the definition of "high level corruption" in view of the SSPO's area of competence would be recommendable.**

**OBJECTIVE 3: Ensure that prosecutors have real-time access to relevant databases and sufficient capacity to effectively implement of the Criminal Procedure Code.**

**OBJECTIVE 4: Review the competences of the Special Investigative Team and ensure its access to relevant databases.**

**OBJECTIVE 5: Ensure sufficient training, well qualified staff and international exchange of expertise to allow for modern investigative techniques to be applied efficiently and on a regular basis. Similar training must be ensured for judicial authorities.**

#### STATE OF PLAY

By adoption of the new Criminal Procedure Code, the concept of investigation was changed, being delegated to the public prosecutor's office. In addition to the prosecutorial investigation, which represents the main novelty, the new CPC, envisages numerous criminal law institutes which did not exist in our legal system earlier, and many already existing institutes were significantly modified. With a view to better implementation of the new Code, the Government of Montenegro adopted in 2009 the Plan for CPC implementation. It created the preconditions for the successful first steps in implementation of the CPC and overcoming the

original problems in implementation of every reform law. Plan for CPC implementation contained several segments: impact of CPC on other regulations, training of professional and other stakeholders with respect to the CPC, informing the public of the basic legislative norms in the CPC, procurement of the necessary technical equipment, assessment of staff and spatial and technical needs in the Public Prosecutor's Office, establishing a Commission for monitoring the implementation of the CPC, framework timeline for realization of the Plan for implementation and budget for its implementation.

New competences of public prosecutors and their changed role in criminal procedure have led to increased workload so, in order to implement the Criminal Procedure Code in efficiently, it is planned to appoint additional public prosecutors-35 of them and other persons employed in public prosecution office. When it comes to the special division of the Supreme Public Prosecutor's Office, the number of Special Prosecutor's Deputies was increased from 2 to 7. For all the newly-employed, in addition to salaries, the adequate spatial and technical conditions for work were provided.

Since the corruptive criminal offences are hard to prove and since their prosecuting and adoption of final judgments takes specialist knowledge, it is necessary to carry out centralization of competences by entrusting one court with solving of these cases, while in the prosecutor's office, a special prosecutor's office will be formed in charge of fight against organized crime and corruption. This conclusion arose from the Analysis of the Judicial Network, with a view to harmonizing practice and specialization in cases of corruptive criminal offences. In addition, centralization of powers is aimed towards cost-effectiveness of the procedures and costs, taking into account that conducting of certain evidence-related activities and following the course of the procedure which requires support of a special IT equipment. Thus, a high level of specialization will be achieved, and the procedure will be much more rational, which is in line with the recommendation of the Commission regarding establishment of effective and specialized bodies. For the purpose of implementation of the results of the Analysis of Judicial Network, in the second quarter of 2013, it is planned to adopt the Plan for Reorganization of Judicial Network. This plan will provide an overview of staff capacities, spatial conditions and technical equipment of judicial bodies, obligations and deadlines will be defined and bodies in charge of their implementation designated. Also, another document which deals with, inter alia, improvement of organization and finding solutions to improvement of institutions is the Analysis of the structure, capacities and authorities of the state bodies and public administration bodies in fight against organized crime and corruption, with an overview of measures.

Efficient fight against corruption primarily means good cooperation between all institutions on national and international level. The Criminal Procedure Code of Montenegro provides for authorizations to the Prosecutor to collect all necessary notifications from all institutions. i.e. evidence and data required for resolving criminal cases. As a body in charge for detection of criminal offences, the Police are obliged to act upon all orders issued by the Prosecutor as well as to inform the Prosecutor about all undertaken actions. In order to have more efficient fight against corruption in Montenegro, a joint investigation team has been established, competent for the work on cases in the field of the organized crime and corruption at high level. Namely, the Supreme Public Prosecutor's Office has signed the Agreement on establishing the Joint Investigation Team with the Police Directorate, Administration for Prevention of Money Laundering and Terrorism Financing, Tax Administration and Customs Administration. In such a manner, the prosecutors are enabled to directly manage the representatives of these institutions with the aim to achieve faster and more efficient gathering of evidence for corruptive criminal offences.

in accordance with the conclusions of the Analysis for the needs of rationalization of judicial network (<http://www.pravda.gov.me/en/library?alphabet=lat>) which was adopted in 2013, in the forthcoming period, it is planned to merge two specialized divisions within high courts into one, with a view to centralizing the competence over organized crime, corruption, terrorism offences and war crimes, within a specialized division in the High court in Podgorica and change in organization of the specialized prosecutorial division for fight against organized crime, corruption, terrorism and war crimes, by establishing a special state prosecutor's office. Detailed activities, competent bodies and deadlines are envisaged by the Plan of Rationalization of the Judicial Network 2013-2015 (link will be available after adoption at the Government).

Following the plan for implementation of the Criminal Procedure Code, and its part related to the creation of spatial and technical conditions in state prosecutors' offices, and considering their new competencies, primarily their changed role in the pre-trial investigation which has increased their workload, the new conditions in respect of spatial, technical and human capacities have been created for 10 basic and two higher prosecutors' offices, and additional space has been provided for the Basic Prosecutor's Office in Podgorica and the Division of the Special Prosecutor's Office. Nevertheless, the creation of spatial and technical conditions will be continued in the future period (2013-2014) through the provision of the necessary spatial and technical conditions for the Division for the suppression of organised crime, corruption, terrorism and war crimes.

However, recognised as weaknesses are the databases, i.e. electronic data exchange and access to the bases. This action plan foresees activities to resolve this issue, following the recommendation of the Screening Report on the need for improved cooperation, exchange of information between bodies involved in the fight against corruption.

The 2009 Criminal Procedure Code has introduced numerous novelties in respect of special investigation methods. These are, primarily, the extended list of criminal offences for which secret surveillance measure can be imposed, as well as the extended catalogue of measures which can be applied. During the course of their work, all bodies involved in the fight against crime were trained on both the application of the secret surveillance measures, and the use of the evidence obtained in such manner. However, having in mind the more contemporary forms of the crimes, it is necessary to conduct continuous trainings of the police in regards to the ways and techniques of application of modern investigation methods, and the judges and prosecutors on the use of the evidence obtained by means of application of such measures. It is necessary to emphasize that amendments to the Criminal Procedure Code will be a means to consider the possibility of prolonged duration of the secret surveillance measures, and the possibility to introduce new measures, all aimed at creating a good legislation framework for fight against crime. Therefore, the above mentioned measures within this objective, will lead to well-trained staff and international exchange of knowledge in regards to the application of modern investigation methods.

Measures for strengthening the capacities of the Police Administration are shown in detail in the action plan for negotiating chapter 24 in the part 6.2 Police cooperation and organized crime.

No.	Measure / Activity	Competent authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
2.2.1.1	Prepare comprehensive Analyses of organisational structure, capacities and competences of state authorities and public administration bodies in fight against organised crime and corruption, that will include: 1. Overview of legislative framework for fight against	Ministry of Interior Ministry of Justice	October 2013	Budget of MoJ 6.029 eur Project OSCE expert support IPA 2010 Strengthening of prosecutorial	Analyses made with recommendations for amending legislative and institutional framework for fight against corruption in accordance with The Government Work	

	<p>corruption and organise crime (Criminal Code, Criminal Procedure Code, Law on Internal Affairs, Law on Customs Service etc);</p> <p>o. Organisational structure and functional content of the public prosecutor's office, police, Customs Administration, Tax Administration etc.;</p> <p>. Special section on seizing of material gain , with emphasise on practical issues when identifying property for extended seizure, exchange of information and competences of the Public Property Administration in respect of management and redemption of the temporarily seized property;</p> <p>l. Special section on the current position of special investigative team and its relationship towards other bodies;</p> <p>e. existing relevant databases for the efficient implementation of the CPC and recognize the technical barriers in terms of access to databases of the Tax Administration, Customs Administration, Police Administration, Mol, Public Property Administration, Central</p>			network expert support	Plan-priority activities point 56	
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	<p>Depository Agency, Harbour Master's Office, Securities Commission, Central Register of Commercial Entities, and reassess the role of the current special investigative team;</p> <p>Comparative model of Croatia and Serbia and</p> <p>Proposal of conclusions for overcoming existing legislative and institutional limitations</p>					
2.2.1.2	<p>Adopt Plan of realisation of conclusions from previous Analysis with concrete measures that need to be realised, competent authorities and deadlines for realisation of measures, especially:</p> <p>Laws that need to be amended, and particularly the Criminal Code, Criminal Procedure Code, Law on Internal Affairs, Law on Customs Service etc.;</p> <p>Changes that need to be made in organisational structure;</p> <p>Improvement of procedure for seizure of material gain and functioning of Property Administration;</p> <p>Define future role of investigative team;</p> <p>Establish unique data base</p>	<p>Ministry of Interior Ministry of Justice</p>	December 2013	Budget of MoJ 3.000 eur	Plan of realisation of conclusions from Analyses adopted	

	and enable exchange of information between relevant authorities; Adopt best solutions from comparative experience.					
2.2.1.3	Merge two specialised divisions in high courts into one for the purpose of centralising competences for criminal offences of organised crime, corruption, terrorism and war crime  <i>Detailed activities, competent bodies and deadlines are envisaged by the Plan of rationalization of the judicial network</i>	Judicial Council High Court in Podgorica High Court in Bijelo Poje Secretariat of Judicial Council Ministry of Justice	November 2014	Budget of the Supreme Court 3.824 eur	Analyses made of human and technical resources in specialised divisions  the Decision on number of judges amended  Plan made for taking over the cases	Centralized competence for the criminal offences of organized crime, corruption, terrorism and war crimes
2.2.1.4	Establish a separate special prosecutor's office for fight against organized crime, corruption, terrorism and war crimes, by adoption of a special law governing the competence (Special Prosecutor's Office shall be competent for acting in all cases with elements of corruption with special refer to sensitive areas and corruption in high level) and organizational structure of the special prosecutor's office for proceeding	Ministry of Justice Prosecutorial Council Supreme Public Prosecutor's Office Specialized Division for fight against organized crime, corruption, terrorism and war crimes	November 2014	Budget total EUR 662.013,16 Regular Budget EUR 503.237,66 Additional budgetary resources needed EUR 158.775,50	Special law adopted  Decisions adopt on the required number of public prosecutors  Special Prosecutor's Office established  Prepared plan for taking-over the cases from the special division of the Supreme State	

	<p>in the cases of organized crime and corruption, and create a basis for establishment of a functional relationship between the Financial Investigations Unit of the Police Administration and the multi-disciplinary team within the special prosecutor's office</p> <p><i>Detailed activities, competent bodies and deadlines are envisaged by the Plan of rationalization</i></p>				Prosecutor's office, as well as the space and inventory	
2.2.1.5	<p>Establish a special information system in the Division for Suppression of Corruption, Organized Crime, Terrorism and War Crimes which will serve for setting up a data base and a secure communication channel with the court, police and other bodies in charge of law enforcement and enable the public prosecutor's office and the special investigative team access to databases required for efficient conducting of financial investigations, data on asset recovery as well as electronic exchange of data and information</p> <p><i>Note: Link with measures no.</i></p>	<p>Supreme State Prosecutor's Office</p> <p>Ministry of Justice</p> <p>Ministry of Interior</p> <p>Ministry for Information Society and telecommunication</p>	<p>June 2014</p> <p>September 2014</p>	<p>IPA 2012 funds provided</p> <p>Budget Cca 50.000 eur</p>	<p>Established special information system and secure channel for exchange of information</p> <p>Completed connecting of databases between the public prosecutor's office and databases of the Ministry of Interior, Tax Administration, Police Administration, Central Register of Commercial Court, Harbour Master's Office, Customs</p>	<p>Established better and more efficient inter-institutional cooperation</p> <p>-Report on work of the Public Prosecutor's Office for Fight against Organized Crime, Corruption, Terrorism and War Crimes</p> <p>-European Commission Report</p> <p>- MONEYVAL report</p>

	<i>6.1.8 i 6.2.28 Action plan for Chapter 24</i>				Administration, Central Depository Agency, Securities Commission, bank accounts of commercial banks, Administration for the Prevention of Money Laundering and Terrorism Financing, Property Administration	
2.2.1.6	Expansion of spatial capacities of the Division for the suppression of corruption, organised crime, terrorism and war crimes	Supreme State Prosecutor's Office	December 2013	No resources are needed	Expanded spatial capacities	Provided better working conditions for the prosecutor's office
2.2.1.7	Strengthen staff capacities of the Division for the Suppression of Corruption, Organized Crime, Terrorism and War Crimes by hiring two expert assistants and two IT experts	Supreme State Prosecutor's Office	September 2013- March 2014	Salaries for the 4 newly-employed	Staff capacities strengthened by hiring two expert assistants and two IT experts	
2.2.1.8	Equipping the Section for the fight against organised crime, the Section for Suppression of General Crime and the Section for Suppression of Economic Crime at central and regional level with material and technical assets in line with EU standards and analysis from measure 6.2.6 (vehicles, IT and equipment for protection and collection of	Ministry of Interior – Police Administration, Ministry of Finance	September 2014 Third quarter of 2015 Third quarter of 2016	Procurement in total for the period 2014-2018: EUR 2,865,000  2014 = EUR 500,000 2015 = EUR 600,000 2016 = EUR		



	<p>evidence, material and technical assets etc.).</p> <p><i>Note: Same measure no. 6.2.14 is planned in the Action plan for chapter 24</i></p>		<p>Third quarter of 2015</p> <p>Third quarter of 2015 Third quarter of 2016</p> <p>Third quarter of 2016</p> <p>Third quarter of 2017</p> <p>Third quarter of 2018</p> <p>since 2017 annually</p>	<p>350,000 Apply for IPA II 2015-2016</p> <p>2015 = EUR 150,000 Apply for IPA II 2015</p> <p>2015= EUR 90,000 2016=90.000 Apply for IPA II 2015-2016</p> <p>2016= EUR 190,000 Apply for IPA II 2016</p> <p>2017= EUR 45,000 Apply for IPA II 2017</p> <p>2018= EUR 50,000 Apply for IPA II 2018</p> <p>Depreciation and</p>		
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				equipment maintenance: 20% of value: 2017 = EUR 400,000 2018 = EUR 400,000		
2.2.1.9	Amendments to the Rulebook on Internal Organisation and Job Description of the Ministry of Interior with a view to the following: Reorganisation, defining competences and centralisation of the line of work for economic crime investigation. Defining competences of the Department for suppression of economic crime and the Department for the fight against organised crime and corruption in conducting financial investigations. <i>Note: Same measure no. 6.2.17 is planned in the Action plan for chapter 24</i>	Ministry of Interior – Police Administration	February 2014          December 2014	Budget: EUR 2,430	Decision on establishing a Working Group whose member will be a representative of the line for fight economic crimes.  Adopted amendments to the Rulebook on Internal Organisation and Job Description for working positions in the Ministry of Interior.	Number of initiated investigations.
2.2.1.10	Strengthening personal capacities in Police Directorate trough increasing the number of work posts for implementing secret surveillance measures	Ministry of Interior– Police Directorate	February 2014  April 2014  May 2014	Budget for WG in 2014 4.860 eur  Additional funds not	Working-group formed -Assessment made of the increase in number of officers for secret	Capacities of Special Verifications Section provide for carrying out at least four field operations at the same time

	<i>Note: Same measure no. 6.2.32 is planned in the Action plan for chapter 24</i>		December 2014 March 2015 May 2015	needed, realisation by internal reassignment of police officials	surveillance measures -Draft of proposal for rulebook made -Amendments adopted on organization and job descriptions of the Police Directorate -Number of officials for implementing secret surveillance measures increased, through reallocation of police officials -State servants that meet the required conditions are employed for open-ended period of time	
2.2.1.11	Definition and organization of specialized trainings in the country and abroad for trainers and officers for secret surveillance measures, as well as research and development for the following areas: Internet and telecommunication surveillance operational technique and observation	Ministry of Interior– Police Administration, Police Academy, Project manager for IPA 2012	March 2014  from April 2014	Through approved IPA 2012 project Donor 2014-2015 EUR 200,000 + co-financing IPA 2012 from the budget 2014 = EUR	Curriculum for trainings prepared (including time of organization and content)  Number of organised trainings (courses, seminars, workshops, working visits)	Number of trained officers

	<p>newly adopted instructions  <i>Note: Same measure no. 6.2.33 is planned in the Action plan for chapter 24</i></p>		to April 2016	<p>20,000  2015 = EUR 10,000  + Independent trainings of the Police from the budget:  2014 = EUR 20,000  2015 = EUR 20,000  2016 = EUR 10,000  + Personnel costs  2014 = EUR 16,200  2015 = EUR 16,200</p>	Number of own trainers	
2.2.1.12	<p>Equipment of the Division for Special Checks with material – technical means in accordance with EU standards, on the grounds of previous analysis (IT and special purpose equipment for conducting investigations and surveillance, audio, video and GPS devices, improvement of Internet and telecommunication surveillance, vehicles and</p>	Ministry of Interior	<p>March 2014   from March 2014 to September 2018</p>	<p>Through approved IPA 2012 project, co-financing from the budget of Montenegro for  2014 = EUR 250,000</p>		

	<p>material – technical means etc.)          Improve mechanisms of electronic recording and external control of application of measures of secret surveillance in the system for monitoring of telecommunication, in line with expert recommendations.  <i>Note: Same measure no. 6.2.35 is planned in the Action plan for chapter 24</i></p>			<p>Procurement in total:          EUR 2,510.000 from the budget of Montenegro for the period 2013-2019:          2014 = EUR 1,000.000          2015 = EUR 760,000          2016 = EUR 450,000          2017 = EUR 300,000          (Apply for IPA II in total amount of EUR 1,200.000 for the period 2015-2017)          +          Annual maintenance of equipment and software from the budget of Montenegro in total          EUR 1,270.000 (for the period</p>		
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				2013-2018): 2014 = EUR 210,000 2015 =EUR 230,000 2016 = EUR 250,000 2017 = EUR 280,000 2018 =EUR 300,000		
2.2.1.13	<p>Providing Unit for undercover investigators with funds and technical resource in accordance with the EU standards (special vehicles, IT equipment and equipment for protecting and collecting evidence, material-technical means and other).</p> <p><i>Note: Same measure no. 6.2. 41 is planned in the Action plan for chapter 24</i></p>	<p>Proposal for responsible authority: Ministry of Interior – Police Directorate</p>	<p>February 2014</p> <p>Sept. 2014 Sept. 2015</p> <p>Sept. 2014 Sept. 2015 Sept. 2016</p> <p>Sept. 2014 Sept. 2016 Sept. 2017</p> <p>Sept. 2016 Sept. 2017</p>	<p>procurement from budget of Montenegro: 230,000 euro (total 2014-2017):</p> <p>2014 = 70,000 2015 = 70,000</p> <p>2014 = 20,000 2015 = 20,000 2016 = 20,000</p> <p>2014 = 10,000 2016 = 5,000 2017 = 5,000</p> <p>2016 = 5,000 2017 = 5,000</p>	<p>Analyses of needs prepared</p> <p>Number of sets for collection of evidence and protection of officers</p> <p>Number of vehicles provided</p> <p>Number of computers and related equipment provided</p> <p>Communication equipment</p>	
2.2.1.14	Designate target groups which	JTC	December 2013	Regular	Target groups in the	Trainings delivered

	will undergo specialized trainings on the application of modern investigative methods within the Public Prosecution Office and Courts and define and organize specialized trainings for the prosecutors and judges on modern investigative methods and measures and use of evidence obtained through application of these methods			budgetary funds	Public Prosecution Office and courts designated and trainings organized	Number and structure of attendees Assessment of the success of training by evaluation forms
2.2.1.15	Procurement of equipment "N Case", and other devices necessary for the forensic examination of mobile phones and examination of bank accounts in the group testing of IT in Forensic Center. <i>Note: Same measure no. 6.2.15 is planned in the Action plan for chapter 24</i>	Ministry of Interior	2015	Need support from EU	Number and type of provided equipment	
2.2.1.16	Conduct employee training in a group test of IT in Forensic Center in a way that will be two officers trained in the field of computer forensics, the two officers in the field of forensic analysis of mobile phones, and 1 officer for the analysis of bank cards. <i>Note: Same measure no. 6.2.16 is planned in the Action plan for chapter 24</i>	Ministry of Interior	2015-2017	Need support from EU	Conducted training The number and structure of participants Assessment of training success through the evaluation form	
2.2.1.17	Ensure joint trainings for	Police Academy,	April 2014 - April 2016	through the	Trainings delivered	

	exchange of experience for the police, prosecutors and judges at the regional and international levels on secret surveillance measures, use of evidence in the court, and especially in the cases of collecting such evidence in cross-border cooperation.	JTC		approved IPA 2012 – EU ROL	Number and structure of attendees Assessment of the success of training by evaluation forms	
2.2.1.18	Carry out trainings for the police, prosecutors and judges on application of secret surveillance measures in the spirit of the Law on Personal Data Protection and secret data	Police Academy, JTC, Personal Data Protection Agency	April 2014 – April 2016	through the approved IPA 2012 – EU ROL	Trainings delivered Number and structure of attendees Assessment of the success of training by evaluation forms	

**2.2.2. Recommendation: Amend the Criminal Procedure Code where needed and ensure its effective implementation.**

**STATE OF PLAY**

The new Criminal Procedure Code is one of the most important reform projects, which transfers investigation from courts to prosecutor's office. The establishment of the prosecutor's investigation system is the most comprehensive change of the future criminal procedure. The secret surveillance measures have been extended to cover all corruptive criminal offences, the procedure of temporary seizure of pecuniary gain has been introduced, along with the financial investigation for extended confiscation of property where legal origin was not proved in the criminal procedure, and the burden of proof is placed on the defendant.

As concerns the recommendation to amend the Criminal Procedure Code and ensure its efficient implementation, it was originally planned to compile a report on the need for amendments to the CPC which will especially cover the following matters: enforcement of decision on temporary seizure of property, as well as the rights of conscientious third parties in respect of temporary seized property; provisions regulating secret surveillance measures in relation to the subjects imposing them, the scope of SSM, criminal offences for which these are applicable, persons on whose these are applied and their duration; provisions regulating dismissal of criminal charges and control of dismissal; provisions regulating authorisations and acts of the police in the preliminary investigation, whereas particular consideration will be given to a possibility for the police to conduct hearing of the suspect subject to approval of the state prosecutor and without consent of the suspect, length of period of deprivation of liberty conducted by the police, as well as the need for the police to adopt decisions, etc. The adoption of the Law on Amendments to the Criminal procedure Code is planned to take place in 2014.

No.	Measure / Activity	Competent authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
2.2.2.1	Prepare a report on the need	Ministry of	June 2013	No additional funds	Prepared report on	



<p>for amendments to the CPC, particularly in the following areas:</p> <ul style="list-style-type: none"> <li>- assignment of <i>ex officio</i> defence council in the order following the list of the Bar Association;</li> <li>- more precise establishment of legally invalid evidence in reference to some of the Articles of the CPC;</li> <li>- the procedure of enforcement of decision of temporary seizure, and the rights of conscientious third parties in respect of temporary seized property;</li> <li>- provisions regulating secret surveillance measures in relation to the subjects imposing them, the scope of SSM, criminal offences for which these are applicable, persons on whose these are applied and their duration;</li> <li>- provisions regulating dismissal of criminal charges and control of the dismissal;</li> <li>-provisions regulating authorisations and actions of the police in preliminary investigation, whereas particular consideration will be</li> </ul>	Justice		needed – standard budget of the Ministry of Justice	the scope of needed amendments to the CPC and adopted decision on the time frame for work on specific amendments to the CPC	
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	<p>given to a possibility for the police to conduct hearing of the suspect subject to approval of the state prosecutor and without consent of the suspect, length of period of deprivation of liberty conducted by the police, as well as the need for the police to adopt decisions;</p> <ul style="list-style-type: none"> <li>- time limits for decision of the state prosecutor on custody, and to prescribe the time limits for complaint against custody decision, and particularly to consider the need to modify the period of custody for some of the criminal offences (organised crime and corruption);</li> <li>- provisions regarding proposal of evidence in investigation in terms of prescribing the obligation of the state prosecutor to adopt a decision which can be complained against;</li> <li>- provisions governing the control of indictment in regards to functional jurisdiction over confirmation of indictment.</li> </ul>					
2.2.2.2	Amend the Criminal Procedure	Ministry of	October 2014	Budget 97.260 eur	Working team	

	Code	Justice		Donation 2.700 eur	established Adopted text of the Working version Expert opinion obtained from the experts of the European Commission Criminal Procedure Code amended	
2.2.2.3	Conduct trainings on the amended provisions of CPC of all actors in the criminal proceedings (police, prosecution, courts, customs officers, tax administration, administration for arevention of money laundering and financing terrorism, lawyers)	Judicial training Centre Police Academy Human Resource Authority Bar Association	November 2014- and continiously in 2015	Budget	Conducted training The number and structure of participants Assessment of training success trough the evaluation form	
2.2.2.4	Monitor application of the amended provisions of the CPC	MJ	January 2015 and continuously	No additional funds required – regular budget of the Ministry of Justice	Plan for the implementation of the CPC adopted, containing provision for the required technical, administrative and financial requirements for its efficient implementation	Reports on application of the amended provisions of the CPC
2.2.2.5	With a view to a more efficient implementation of the Law on Criminal Procedure, amend the Law on Internal Affairs, by	Ministry of Interior	October 2014	No additional funds required – regular budget of the Ministry of Interior	Law Amending the Law on Internal Affairs adopted	Efficient and legal application of the secret surveillance measures enabled

	deletion of the provisions whereby the Minister of Interior approves by means of an order the application of secret surveillance measures (Articled 42)					
2.2.2.6	With a view to a more efficient implementation of the Law on Criminal Procedure, amend the Law on Customs Service with a view to elaboration of authorities for measure-taking during the preliminary investigation	Ministry of Finance Ministry of Interior	IV Q 2015	No additional funds required – regular budget	Law Amending Law on Customs Service adopted	More efficient conducting of the preliminary proceedings

**2.2.3. Recommendation: Improve the use of financial investigations, possibly through establishing a team of highly qualified investigators for this purpose.**

**STATE OF PLAY**

Amendments to the Criminal Code, adoption of the new Law on Criminal Procedure, in the period 2009-2011, introduced a series of amendments whereby the system for confiscating pecuniary gain has been improved, and a new institute was introduced – extended seizure of pecuniary gain.

Montenegrin system, in this field, recognizes the following institutes: confiscation of objects, pronounced as a security measure; confiscation of property, extended confiscation of pecuniary gain and temporary seizure of objects, property and pecuniary gain. Also, the novelty was introduced that the competent prosecutor conducts financial investigations with a view to extended confiscation of pecuniary gain. The procedure of extended confiscation of pecuniary gain takes place at three stages: at the first, investigative (preliminary investigation and previous procedure) stage, property and pecuniary gain are established, located and data on the owner are collected. At the second, judicial stage, a decision is adopted on permanent confiscation of such property; while at the third stage, the state becomes entitled to disposing of the confiscated property.

With a view to improving the financial investigation system, a better setting up of a functional link among the bodies that possess the information necessary for conducting financial investigations and the judiciary, employment of a number of professionals-analysts, and exchange of experience at the regional and international levels are required, especially because the proceeds of crime are often located in the territory of several states.

No.	Measure / Activity	Competent authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
2.2.3.1	Strengthen the administrative capacities of the Special Prosecutor's Office through	Supreme Public Prosecutor's Office	March 2014	Resources not necessary	Multi-disciplinary team established	

	establishment of a multi-disciplinary team composed of the expert assistants and accountants, experts in the field of money laundering, banking experts, experts in international banking transactions, tax experts					
2.2.3.2	Adopt a special law governing the procedure of conducting financial investigations and the institute of confiscation of property (material and procedural provisions and provisions about management, supervision and revocation of property)	Ministry of Justice	October 2014	Budget 97.260 eur Donation 2.700 eur	Special law adopted which will be aligned with the new FATF recommendations from 2012	
2.2.3.3	To establish specialised organisational units in line with expert recommendations, within the Criminal Investigation Police through changes in organisation and job description, particularly for the following: - Financial investigations; - High-tech crime; - Trafficking in human beings and	Ministry of Interior – Police Administration	February 2014  April 2014  May 2014  December 2014	Total budget for the period 2014-2018: EUR 528,000  Working Group 2014 = EUR 4,860  Salaries for new officers for the period 2015-2018:	Working group established.  Assessment of necessary number of officers made.  Draft Proposal for the Rulebook developed.  Amendments to the Rulebook on	Number of initiated investigations.

	- Terrorism.  <i>Note: Same measure no. 6.2.18 is planned in the Action plan for chapter 24</i>		March 2015	2015 = EUR 132,000 2016 = EUR 132,000 2017 = EUR 132,000 2018 = EUR 132,000	Internal Organisation and Job Description adopted.  Fulfilling of working posts.	
2.2.3.4	Strengthening human resources of the economic crime field of work, deployment of new employees to vacancies. <i>Note: Same measure no. 6.2.19 is planned in the Action plan for chapter 24</i>	Ministry of Interior – Police Administration	December 2014  January 2015	No additional funds required, Implementation via internal reallocation of police officers.	- Selection of employees and adopting decisions on their allocation, - Decisions on allocation adopted.	Number of initiated investigations.
2.2.3.5	Deliver trainings for the employees in the special unit of the Police Administration for implementation of financial investigations, as well as the multidisciplinary team and prosecutors and judges  <i>Note: Link with measure no. 6.2.20 in Action Plan for 24</i>	JTC Police Academy	May 2014	Financial and expert assistance of the EU required Apply for the twinning project	Trainings organized  Number of trainings carried out  Number and structure of attendees	Inspectors trained for conducting financial investigations  Trained prosecutors and judges
2.2.3.6	Exchange of experience at the regional and	Judicial Training Centre Police Academy	April 2014 - April 2016	Budget	Study visit organized with the	

	international levels through organizing study visits and gatherings in the field of fight against corruption with a special overview of financial investigations and data collecting at the international level			IPA 2010 Fight against organized crime and corruption: strengthening of prosecutorial network  OSCE	following topic: Financial investigations Symposia organized  Conclusions presented	
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**2.2.4. Recommendation: Improve the cooperation and information exchange between authorities involved in the fight against corruption, including also tax and other only indirectly linked authorities.**

**STATE OF PLAY**

Prosecutor, pursuant to the authorities prescribed in the Law on Criminal Procedure, handles the pre-trial procedure by issuing the binding orders to the police administration or, by means of direct managing, directs the work of the police. Also, during the pre-trial procedure, prosecutor needs a lot of information from other state bodies, as well, so the prosecutor collects the necessary notifications from them too, in line with the provisions of the Law on Criminal Procedure. All the state bodies are obliged to provide the requested information, at the request of the prosecutor.

Taking into the account that it is necessary to improve the exchange of information of all the bodies involved in fight against corruption, Montenegro will make an improvement not only by fulfilment of measures prescribed under this objective, but meeting this objective will also be significantly influenced by the fulfilment of objective 1 sub-objective 3 whereby access to the relevant databases will be enabled for the prosecutors, as well as through the fulfilment of a measure prescribing designation of highly-qualified inspectors for conducting financial investigations and their linkage to the Special Prosecutor's Office.

Improvement of cooperation and exchange of information among the bodies involved in the fight against corruption will be achieved also by establishment of a security channel for exchange of information between the Public Prosecutor's Office and other bodies, as well as enabling the Special Prosecutor's Office the access to relevant databases.

Cooperation and exchange of information between the authorities involved in the fight against corruption will be enhanced in a way that others state organs (except for police and prosecutors) will conclude agreements on the exchange of information in order to get a pre trial data necessary for the elucidation of corruption offenses. It is important to note that the Supreme state prosecutors office in the previous period concluded agreements with countries in the region (Serbia, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Albania, Romania and Hungary) to enable direct exchange of evidence and data. Our objective will be reached if other authorities conclude agreements on exchange of information.

No.	Measure / Activity	Competent authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
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2.2.4.1	Sign a Protocol on Cooperation of the Police Administration and Supreme Public Prosecutor's Office, whereby cooperation in the pre-trial and criminal procedures will be regulated	Supreme Public Prosecutor's Office Ministry of Interior	Underway	Regular funds from the budgets of both bodies	Protocol signed	Clearly determined roles of the police and prosecution on the occasion of conducting preliminary investigation related to corruptive and other criminal offences
2.2.4.2	Signing of the agreements between state bodies of Montenegro and bodies of other states, such as Tax Administration, Customs Administration, Harbour Master Office, on exchange of information necessary for collecting of data in pre-trial and criminal procedure	Tax Administration Customs Administration Harbour Master Office	January 2014 and continuously	No funds required	Agreements concluded	Created possibility for exchange of information between the bodies of various states -Annual Work Report -EC Progress Report
2.2.4.3	Prepare an analysis of the organizational structure, capacities and authorities of state bodies and administration bodies in the fight against organized crime and corruption (same as measure within 2.2.1.1)					
2.2.4.4	Adopt a Plan for implementation of the conclusions from the previous analysis (same as measure within 2.2.1.2)					
2.2.4.5	Amend the provisions of the Criminal Procedure Code with respect to the part					



governing authorities and activities of the police during preliminary investigation (same as measure within 2.2.2.2)					
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**2.2.5. Recommendation: Improve the collection of unified statistics on corruption, distinguishing clearly between different types of criminal activities and allowing for a detailed assessment of length of the cases, outcome etc.**

**STATE OF PLAY**

Strategy establishing the judicial information system was a part of the Judiciary Reform Strategy, but, bearing in mind the complexity of this system, a special Strategy for the Development of the Judicial Information System for the period 2011-2014 with the action plan for implementation of the strategy was drafted. Judicial information system comprises the information systems of the Ministry of Justice, courts, public prosecutors' offices, misdemeanours and Institution for Enforcement of Criminal Sanctions. Objective of the setting up of such a system is, inter alia, a single systematization and classification of data, more efficient provision of information, aimed at a single, quick and accurate data exchange. One of the tasks that the Judicial Information System has to meet is setting up of single system of reporting on the cases of corruption and organized crime. In the forthcoming period, a new action plan will be adopted for the purpose of strategy implementation.

Detailed measures and sub-measures for enhancement of functioning of the PRIS are given in the part 1.4. professionalism, expertise and efficiency of judiciary.

<b>No.</b>	<b>Measure / Activity</b>	<b>Competent authority</b>	<b>Deadline</b>	<b>Required funds / Source of financing</b>	<b>Indicator of result</b>	<b>Indicator of impact</b>
2.2.5.1	Perform the analysis of the possibility for application of the existing judicial information system (PRIS) with respect to the statistical monitoring of criminal offences with elements of corruption from filing of the criminal charges until the adoption of the final judgment	Secretariat of the Judicial Council which is in charge of monitoring the Judicial Information System Supreme State Prosecutor's Office	December 2013	Regular budgetary funds	Analysis with a special overview of the possibility for setting up the uniform statistical data on corruption at the level of all bodies, drafted and distinction of various types of criminal offences;  Enabled estimate of duration of a procedure	

					and outcome upon the filed criminal charged	
2.2.5.2	Upgrade PRIS with respect to setting up of uniform statistical data for monitoring criminal offences with elements of corruption	Secretariat of the Judicial Council in cooperation with the Supreme Public Prosecutor's Office	December 2013	IMG project	System for keeping uniform statistics at all levels in the field of corruption, set up  Automated system updating enabled	Regular reporting from the PRIS
2.2.5.3	Deliver trainings for the persons in charge of keeping, monitoring and reporting on the statistics for the criminal offences with elements of corruption	Judicial Training Centre	December 2013 and continuously	Regular budgetary funds	Plan of trainings adopted  Trainings implemented  Number of trainings delivered  Number and structure of trainees  Assessment of the success of the training by evaluation forms	

**2.2.6. Recommendation: The procedures for seizure, confiscation and management of proceeds of crime need to be further regulated and the professional capacity of the relevant State Agency strengthened.**

**STATE OF PLAY**

In relation to recommendation that procedures of seizure, confiscation and management of property gained by criminal offence should be regulated in more detail, it is important to emphasize that via the amendments to the Criminal Code and then adoption of the new Criminal Procedure Code, in the period from 2009 to 2011, several changes were implemented which improved the system for confiscating pecuniary gain, and a new institute was introduced - institute of extended seizure of property.

In this area, Montenegrin system recognizes the following institutes: confiscation of objects, which is pronounced as a security measure; confiscation of property; extended confiscation of pecuniary gain, and temporary seizure of objects, property and pecuniary gain.

Via the amendments in 2009 and 2010, our legislation introduced new institute of extended confiscation of pecuniary gain i.e. confiscation of pecuniary gain from the accused, his/her legal successor or person to whom gain was transferred and for which it cannot be proved that it is legitimate. The extended confiscation of pecuniary gain can be taken into account only if the accused is found guilty by final and enforceable judgment for one of the criminal offences for which the Criminal Code stipulates the possibility of extended confiscation of pecuniary gain. The Prosecutor can submit this request within the period of one year from the date the judgment has been made final whereby s/he was convicted for one of the criminal offences in respect of which extended confiscation of property gain is possible. The Criminal Code defines offences for which the accused should be found guilty by final judgment, so that the Prosecutor can have a right to propose the extended confiscation of pecuniary gain. These are the following criminal offences: all criminal offences committed within criminal organization, within the meaning of criminal organization defined by Article 401 a of the Criminal Code; criminal offences against humanity and other values guaranteed by international law if they were committed out of greed (terrorism, trafficking in human beings, public call for the commission of terrorist acts, financing of terrorism etc.); criminal offence of money laundering; unauthorized production, possession and release into circulation of narcotic drugs; criminal offences against payment operations and economic activity and criminal offences against official duty, which were committed out of greed, and which carry eight year prison term or a more severe punishment.

U In the forthcoming period, more attention will be paid to improvement of the legislative framework and strengthening the capacity of the Public Property Administration.. Namely, emphasis will be placed on the adoption of a special law governing the issues of confiscation of property. Adoption of this law will take place simultaneously with the amendments to the Law on Criminal Procedure and Law on Public Prosecutor's Office. In the meantime, the capacity of the Public Property Administration will be strengthened while during 2015, an independent body will be established which will be in charge of custody and management of temporarily seized and permanently confiscated property.

Measures referring to the training of police on confiscation of property gain are in the Action plan for the negotiating chapter 24 in part 6.2 Police Cooperation and Organized Crime, as well as in the part of this action plan (chapter 23) in the part related to financial investigations. Strengthening of the capacity of the Special Prosecutor's Office is also described in detail within the recommendation concerning financial investigations.

No.	Measure / Activity	Competent authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
2.2.6.1	Within the Analysis of the organizational structure, capacities and authorizations of the state bodies and administration bodies in fight against organized crime and corruption, the procedure for confiscation of	Ministry of interior Ministry of Justice	October 2013	No additional funds necessary – regular budget of the both ministries OSCE project expert support IPA 2010 Fight	Analysis made with the overview of the current state in the cases where pecuniary gain was confiscated, further custody and management thereof by the Public Property Administration, obstacles detected and	

	pecuniary gain, custody and management over it will be particularly analysed <i>Note: link with measure no. 2.2.1.1 within recommendation 2.2.1</i>			against organized crime and corruption: Strengthening of the prosecutorial network	deficiencies in application of this institute and recommendations for improvement	
2.2.6.2	Adopt a special law governing the procedure of conducting financial investigations and the institute of confiscation of property (material and procedural provisions and provisions about management, supervision and revocation of property)	Ministry of Justice	October 2014	Budget 97.260 eur Donation 2.700 eur	Special law adopted which will be aligned with the new FATF recommendations from 2012	
2.2.6.3	Strengthen administrative capacities of the Public Property Administration through increase in number of jobs for civil servants for management and custody of the temporarily seized or permanently confiscated property, by recruitment of two civil servants	Public Property Administration	December 2014	Budget in the amount of EUR 19.440 per two employee at the annual level	Increased number of jobs for civil servants for management and custody of the temporarily seized and permanently confiscated property	Strengthened administrative capacities of the Public Property Administration for management and custody over the confiscated property
2.2.6.4	Develop internal work procedures of the Public Property Administration	Public Property Administration	December 2013	Budget of the Public Property Administration	Developed work procedures, determined criteria for management	

				2.700 eur	of various types of property	
2.2.6.5	Establish the electronic Register of confiscated property which will contain: number of the decision; name of the court, namely, body in charge of conducting the misdemeanour procedure; type and estimated value of property confiscated and data on the person from whom property has been confiscated	Public Property Administration	December 2013	Budget of the Public Property Administration 4.000 eur	System for keeping records of the confiscated property established	
2.2.6.6	Regularly report on custody and management of seized property	Public Property Administration	semi-annually	Budget of the Public Property Administration 400 EUR	Semi-annual reports of the Public Property Administration prepared and published on the web-site	Number of cases and value of permanently confiscated property
2.2.6.7	Adopt a plan of trainings and deliver trainings for the civil servants of the Public Property Administration in the field of custody and management of confiscated property	Human Resources Administration Public Property Administration	December 2013 and continuously	Budget of the Human Resources Administration and Public Property Administration 3.000 eur	Plan of trainings adopted Number of trainings delivered Number and structure of trainees	
2.2.6.8	Deliver trainings for the civil servants of the Police Administration, public	Judicial Training Centre Police Academy	2014	Budget of the Judicial Training Centre	Number and structure of trainees Number of trainings	

	prosecutors and judges on financial investigations, detection and freezing of proceeds acquired by criminal offence, in line with the annual training programme			and 3.000 eur Police Academy IPA 2010 Fight against organized crime and corruption: Strengthening of the prosecutorial network OSCE project	delivered	
2.2.6.9	Establish an independent body which will be in charge of management and custody of the seized property	Ministry of Justice and Ministry of Finance	2015	Budget	Independent body established	

**2.2.7. Recommendation: Take the necessary steps to make the system of whistle-blower protection more effective in practice.**

**STATE OF PLAY**

With respect to the recommendation for strengthening of efficiency of the system for the protection of persons reporting corruption, the Law on Civil Servants and Public Employees (Official Gazette of Montenegro 39/11, 50/11 and 66/2012), providing for the main bases for establishment of a de-politicized and professional public administration, protection of the persons reporting possible cases of corruption is improved and the obligation of adoption of the integrity plans in the public sector is prescribed. Also, the Administration for Anti-Corruption Initiative prepared, and the Ministry of Justice adopted by the end of January, the Guidelines for Development of Integrity Plans.

Work on strengthening the system for the protection of persons reporting corruption will be continued by making an analysis into application of the existing legal framework and taking the necessary activities in line with the conclusions of the analysis.

No.	Measure / Activity	Competent authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
2.2.7.1	Analyse the existing	Police Administration	September	Budget of the	Make an analysis into	

	<p>normative framework and implementation of regulations referring to the protection of persons reporting corruption with the information on:</p> <ul style="list-style-type: none"> <li>- key problems in implementation of the regulations;</li> <li>- number of reporting instances from the private sector;</li> <li>- number of reporting instances from the state administration;</li> <li>- number of initiated investigations;</li> <li>- number of indictments raised;</li> <li>- number of final judicial decisions;</li> <li>- number of persons who bore consequences due to reporting, including the data on number and type of sanctions pronounced against these persons;</li> <li>- number of sanctioned superiors using the measures of intimidation, restrictions or punishing of civil servants who point out to corruption;</li> </ul>	<p>Supreme Public Prosecutor's Office Supreme Court of Montenegro</p>	<p>2013</p>	<p>Police Administration Supreme Public Prosecutor's Office Supreme Court of Montenegro Expert support</p>	<p>implementation of the regulations referring to the protection of persons reporting corruption</p>	
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	- type and extent of sanctions pronounced for the superiors					
2.2.7.2	Ensure legal protection of whistle blowers through amendments to the Criminal Code, whereby protection of whistle blowers will be ensured through incrimination of persons who cancel the labour contract to an employee, who due to the reasoned doubt that a criminal offence with elements of corruption has been perpetrated, submitted a report or addressed the competent persons or bodies.	Ministry of Justice Parliament	September 2013	Budget of the Ministry of Justice EUR 39.690	Law Amending the Criminal Code adopted	Legal protection ensured Number of criminal charges Number of dismissed criminal charges Number of persons accused Number of persons convicted
2.2.7.3	Adopt the Law on the Anti-Corruption Agency, in line with the proposed model. The Law will define the following competences of the Agency: coordination, surveillance and monitoring of implementation of the strategic documents for fight against corruption with the accompanying APs, coordination and	MJ in cooperation with the MF, AACI and CPCI with the participation of the NGO and engagement of an expert through TAIEX	June 2014	Budget EUR 31,770 (working group of 8 persons, effective work for 2 months – draft law 12,960; public debate 3,810; work of the parliamentary committees	-Law on Anti-Corruption Agency adopted, in line with the proposed model and the expert opinion of the EC	- Legal framework for operation of the Anti-Corruption Agency established, with the established competences, i functional and financial independence and autonomy of the Agency ensured.



	<p>surveillance of implementation of integrity plans; direct implementation and surveillance of the Law on Lobbying, Law on Prevention of Conflict of Interests and Law on Financing of Political Parties and Election Campaigns, whistleblower protection and initiating signing of international agreements and amending regulations with a view to full application of the international anti-corruption standards i.</p> <p><i>Note: The same measure is envisaged in the part concerning preventive actions against corruption, within the recommendation 2.2.1</i></p>			15,000 ; TAIEX EUR 2,700 (one expert, five working days)		
2.2.7.4	Monitor application and adherence to the mechanisms for corruption reporting	Administration for Anti-Corruption Initiative	June 2015 and continuously	No additional funds required	Semi-annual reports containing: <ul style="list-style-type: none"> <li>- total number of corruption reports;</li> <li>- number of corruption reports by employees</li> <li>- number of reports forwarded to the public</li> </ul>	

					prosecutor's offices; - number of indictments raised; - number of final and enforceable convictions; - number and type of pronounced sentences;	
2.2.7.5	Promote channels for corruption reporting and protection mechanisms, as well as good examples of corruption reporting	Administration for Anti-Corruption Initiative	Continuously	No additional funds required	Number of informative campaigns  Annual public opinion surveys carried out in order to monitor trust of citizens in institutions in charge of fight against corruption  Number of surveys carried out;	Percentage of citizens' trust in police, public prosecutors' offices and judiciary, as well as the Administration for Anti-corruption Initiative

**2.2.8. Recommendation: Review the system of immunities and ensure that effective procedures for lifting of immunities are in place.**

With respect to the above recommendation of the European Commission, referring to reassessment of the immunity system and establishment of an efficient procedure for revoking immunity, measures are given in the part of the Action Plan entitled "Strengthening the independence of judiciary" within objective 1.3.: "Liability in judiciary", measure 1.3.5.

Constitution of Montenegro stipulates that the Member of Parliament of Montenegro shall enjoy immunity, shall not be called to criminal or other account or detained for expressed opinion or vote in the exercise of his or her function as a Member of Parliament. Moreover, no criminal proceeding shall be initiated against a Member of Parliament, nor detention shall be assigned, without approval of the Parliament, unless the Member of Parliament has been caught performing a criminal offence for which the prescribed penalty is more than five years of imprisonment. Beside the Members of Parliament, the President of Montenegro, Prime Minister and cabinet members, President of the Supreme Court, President and judges of Constitutional Court and Supreme Public Prosecutor enjoy the same immunity. Prime Minister and other Ministers enjoy immunity, which means that they cannot be imposed with criminal or other liability or detained for the opinion expressed or for voting within performance of their office. No criminal procedure may be initiated against them, or custody ordered,

without the authorization of the Parliament, unless they are caught in performance of the criminal offence for which a punishment in duration exceeding five years of imprisonment is prescribed.

2012-2013 The Parliament has not adopted any decision on granting permission to launch the criminal proceedings against its members. In 2012 the Administrative Committee reviewed two requests and submitted a report with suggestions to the Parliament, and in 2013 (until now) the competent authorities have submitted two requests, which are on the Committee's agenda of the session, scheduled for 25th June.

**2.2.9. Review the procedure for closure of criminal cases and consider possibilities for appeals or complaints**

**STATE OF PLAY**

Law on Criminal Procedure governs the procedure for dismissal of criminal charge, whereby authorization is given to a public prosecutor to dismiss a criminal charge by a reasoned decision, if s/he finds that the reported deed is not a criminal offence or is not an offence prosecuted ex officio, if the statute of limitations ensued or if the offence is covered by an act of mercy or if there are other circumstances excluding prosecution, or if there is no reasoned doubt that a criminal offence was perpetrated.

After the dismissal of the criminal charge, public prosecutor is obliged to inform the person who submitted the report and the injured party, and to submit him/her the decision on dismissal of the criminal charge. Law on Criminal Procedure provides for a possibility for the injured party to undertake criminal prosecution within a certain period of time, if s/he does not agree with the prosecutor's decision, on which right the public prosecutor is obliged to inform the injured party. The Code does not provide for a possibility for the person who submitted the report not to have a possibility to lodge an objection to the adopted decision on dismissal of criminal charge, which should be considered in the forthcoming period through possible amendments to the corresponding law (Criminal Procedure Code or Law on Public Prosecution), especially with respect to the criminal offences of organized crime and corruption.

It is important to emphasize that the Supreme State Prosecutor's Office performs the control of all the decisions on dismissal of criminal charges once per year, and if it finds that the prosecutor did not make an adequate decision, may place such a decision out of legal effect, and order initiation of a procedure.

No.	Measure / Activity	Competent authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
2.2.9.1	Improve elaboration and recording of Prosecutorial Decisions by introducing/revising rules on: -Stronger elaboration of 1) prosecutorial decisions on rejecting or accepting criminal reports; 2) prosecutorial decisions on	Supreme Public Prosecutor's Office	September – December 2013	Regular budgetary funds	Prosecutorial decisions regarding rejecting or accepting criminal complaints and decisions on preliminary investigations are better elaborated and documented/recorded.	

	preliminary investigations; 3) prosecutorial decisions on indictment -Documentation of prosecutorial decisions/keeping records					
2.2.9.2	Amend Criminal Procedure Code in respect of reassessment of the decision of the prosecutor on dismissal of criminal charges in all cases.	Ministry of Justice	October 2014	Budget 97.260 eur Donation 2.700 eur	Legal possibility created for reassessment of the prosecutor's decision on dismissal of criminal charge in all cases.	Number of initiated procedures for reassessment of the prosecutor's decision on dismissal of criminal charge and their outcome

### 3. FUNDAMENTAL RIGHTS

#### 3.1. Recommendation: Strengthen the capacity of the Ombudsman, in particular in view of his role as national mechanism for the prevention of torture.

##### CURRENT SITUATION

Under the Constitution of Montenegro, the Ombudsman has been established as an autonomous and independent authority undertaking measures for the protection of human rights and freedoms.

The Law on Montenegrin Ombudsman<sup>7</sup> stipulates that the Ombudsman shall autonomously and independently, based on the principles of justice and fairness, undertake measures to protect human rights and freedoms when these are violated by an act, action or omission to act by state bodies, state administration bodies, local self-government bodies and local administration bodies, public services and other entities exercising public powers, as well as measures to prevent torture and other forms of inhuman or degrading treatment or punishment and anti-discrimination measures (Article 2 paragraph 2 of the Law). Under this new Law, the Ombudsman has been established as a national mechanism for the protection of persons deprived of liberty from torture and other forms of cruel, inhuman or degrading treatment or punishment (NPM). In addition to competences and powers the Ombudsman had under previous law, the Ombudsman has been also entrusted with the prevention of torture and other forms of inhuman or degrading treatment or punishment in accordance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In exercising the function of the NPM, the Ombudsman directly cooperates with the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The Rulebook on internal organization and job description of the Technical Service of the Ombudsman of Montenegro<sup>8</sup> (on which an opinion was given by the Administrative Committee of the Parliament of Montenegro at its meeting of 20 April 2012) stipulates that the Ombudsman, within a particular field of

<sup>7</sup>The Law was published in the Official Gazette of Montenegro 42/11, and it applies as from 23 August 2011.

<sup>8</sup>The Rulebook on internal organization and job description of the Technical Service of the Ombudsman of Montenegro entered into force on 15 May 2012

specialization - National preventive mechanism, protection from torture and the right to trial within a reasonable time, will include the protection of human rights and freedoms: of detainees and persons whose movement is restricted in order to prevent torture and other forms of inhuman or degrading treatment or punishment, protection from torture and other forms of inhuman or degrading treatment or punishment by the police, officers in the bodies for the execution of criminal sanctions or bodies, organizations and institutions in which persons whose movement is restricted are placed, and protection in the case of delays, an obvious abuse of the procedural powers and non-compliance with court decisions. For these jobs (for the whole area), it is planned to recruit five civil servants with higher education (four advisers to the Ombudsman and one independent advisor). With Deputy Ombudsman (who was appointed to this position by the Parliament of Montenegro, in this area, in June 2012), the institution of the Ombudsman, for now, is staffed to carry out the tasks of prevention of torture and protection from torture. However, in the future, it is necessary to strengthen the human resources for performing these tasks (with two new employees). In 2013, the total budget for the Ombudsman amounts to EUR 528,924.32. For the NPM no specific amount was earmarked in the budget of the Ombudsman so that the activities in this area are funded from the integral budget of the Ombudsman. In 2012, approximately EUR 101,450.96 was allocated for the NPM activities through a special program in the Ombudsman's budget - Prevention of Torture. The Rulebook on internal organization and job description of the Technical Service of the Ombudsman envisages 33 working posts in total of which 22 have been occupied. A plan to strengthen the administrative capacity of the Ombudsman by recruiting the missing officers has been made (in total for all areas 11 working posts: for protection of discrimination 3 officers, for prevention of torture and protection from torture 2 officers, for protection of rights of the child 1 officer, for the protection of human rights in the work of general jurisdiction 3 officers and for technical work 2 officers) which is expressed through the following measures - 3.1.6, 3.6.1.4 and 3.8.1.8.

Based on powers laid down in the Law on Montenegrin Ombudsman, the Ombudsman adopted the Decision establishing the Advisory Body of the Montenegrin Ombudsman for the assessment of situation in authorities, organizations and institutions in which persons deprived of liberty and persons whose movement is restricted are held<sup>9</sup>, which comprises experts from the field of penology, psychiatry, psychology, defectology, forensic medicine and other relevant fields. The list of experts is made by the Ombudsman, and before it is made the Ombudsman may obtain the opinion of a research institution or professional organization. For a specific activity falling within the scope of tasks of the NPM, the Ombudsman appoints experts by a decision. The representatives of the Advisory Body of the NPM together with the representatives of the Ombudsman inspect and assess the situation in authorities, organizations and institutions in which persons deprived of liberty and persons whose movement is restricted are held, they make a record on situation found including their expert opinion, proposals, suggestions, based on which, they also make a report which is submitted to the authority, organization and institution where the visit was conducted, as well as to the authority competent for supervision over the work of such authority, organization or institution.

As regards the found cases of torture and other forms of cruel, inhuman or degrading treatment or punishment and other violations, the Ombudsman identifies violations committed in the report and gives opinion and recommendations to the authority, organization or institution in which such violation has been found.

With the aim of full legislative harmonization with the Optional Protocol, in the Law on Ombudsman, and in the secondary legislation of the Ombudsman, additionally to the experts from different fields, it is necessary to include also representatives of the NGO sector and that should be specified in the legislation. It is also necessary to establish clear criteria for the selection of experts and representatives of the NGO sector as members of the NPM body.

In order to ensure easier access of persons deprived of liberty to the institution of the Ombudsman and to monitor the level of protection of their rights (including the prevention of and protection from torture and other forms of cruel, inhuman or degrading treatment or punishment), in cooperation with OSCE, in

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<sup>9</sup>Decision establishing the Advisory Body of the Montenegrin Ombudsman for the assessment of situation in authorities, organisations and institutions in which persons deprived of liberty and persons whose movement is restricted are held was published in the Official Gazette of Montenegro 54/12

early 2012, in the Institution for Enforcement of Criminal Sanctions (in facilities in Podgorica and Bijelo Polje) and in the buildings of institutions in which persons whose movement is restricted are held, the Ombudsman placed Ombudsman's boxes through which these persons can address Ombudsman, if they consider that their rights or freedoms have been or may be violated including torture and other prohibited forms of conduct. Keys to the boxes are kept by the authorized persons of the Ombudsman and complaints are taken once in fifteen days.

Overview of actions taken by the Ombudsman upon individual complaints is given in the annual Work Report of the Ombudsman which is published on the web site of the Institution<sup>10</sup>.

In 2011, the Ombudsman assessed the conditions in police premises used for police custody in the Police Directorate and made a Special Report thereof<sup>11</sup>. Research has been made also of the situation in the field of human rights of mentally ill persons placed in institutions and a Special Report was made thereof as well<sup>12</sup>. Most deficiencies pointed out by the CPT and the Ombudsman were remedied and significant progress has been made. However, it is still necessary to continue to monitor the situation and improve the conditions for the accommodation and treatment of these persons in accordance with the recommendations made.

As regards the visits carried out by the Ombudsman, in September 2012 the Ombudsman made the Information Brief on actions taken by the police upon recommendations made by the Montenegrin Ombudsman in 2011 Special Report<sup>13</sup>. The Report of the Ombudsman on the situation in the Remand Prison in Podgorica was prepared.<sup>14</sup>

No.	Measure/Activity	Responsible authority	Deadline	Required funds/Source of financing	Indicator of results	Indicator of impact
3.1.1.	Adoption of the Law on Amendments to the Law on the Protector of Human Rights and freedoms of Montenegro, harmonized with the EU and UN regulations and standards in relation to the realization of the function of the National Preventive Mechanism (NPM). Clearer and more complete positioning of the Ombudsman function as the NPM and of authorized officers who perform duties related to the NPM (adoption of the so-called	Ministry of Human and Minority Rights and Protector of Human Rights and Freedoms of Montenegro	December 2013	Budget of Montenegro / section the Ministry of Human and Minority Rights, regular budgetary funds in the	Adopted Law on Amendments to the Law on the Protector of Human Rights and Freedoms harmonized with the EU acquis, inter alia, with relation to the realization of the function of the NPM in line with the Optional	Preparation and submission of the NMP Work Report to the Parliament of Montenegro and publication on the institution's website.

<sup>10</sup>The Report can be found on the Ombudsman's website at: <http://ombudsman.co.me/izvjestaji.php>

<sup>11</sup>The Report can be found on the Ombudsman's website at: <http://ombudsman.co.me/izvjestaji.php>

<sup>12</sup>The Report can be found on the Ombudsman's website at: <http://ombudsman.co.me/izvjestaji.php>

<sup>13</sup>The Information Brief can be found on the Ombudsman's website at: <http://ombudsman.co.me/izvjestaji.php>

<sup>14</sup>The Report can be found on the Ombudsman's website at: <http://ombudsman.co.me/izvjestaji.php>

	"Ombudsman Plus Model", i.e. in addition to the professionals, normative engagement of the NGO sector to perform the NPM tasks). Better implementation of the independent function of the Ombudsman as the NPM in accordance with the Optional Protocol.			amount of EUR 23,260	Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.	
3.1.2.	Amendment of the Rules of functioning of the Ombudsman of Montenegro (amendments or new rules depending on the scope of the necessary changes stemming from the amended/new legal competences with respect to implementing the NPM function). Further elaboration of individual activities in the mode of operation and acting by the Ombudsman, authorized personnel and all other employees in all areas of human rights and freedoms, including administrative duties, and also in the performance of activities of the NPM.	The Ombudsman of Montenegro	June 2014 (and not later than 6 months from the date of entry into force of the Law)	The budget of Montenegro / section Ombudsman , EUR 4,860 (regular budgetary funds)	The amended Rules of functioning of the Ombudsman of Montenegro adopted and harmonized with the amended Law on the Protector of Human Rights and Freedoms of Montenegro (depending on the scope of the necessary changes - amended/new legal competences), and with respect to implementing the NPM function and with clearly defined procedures for taking action.	
3.1.3	Amendment of the Decision on forming a body under the Ombudsman of Montenegro for analysing the state in the authorities, organizations and institutions for the retention of persons deprived of liberty or persons whose movement is restricted in order to, in addition to experts, following a transparent	The Ombudsman of Montenegro	June 2014 (not later than 6 months from the day of the adoption	The budget of Montenegro / section Ombudsman EUR 4,860 (regular	The amended Decision adopted regarding the forming of a body under the Ombudsman of Montenegro for analysing the state in authorities,	Team formed - staff of the NPM, i.e. experts and representatives of the NGO sector in the team reviewing the state in order to prevent torture.

	<p>procedure, include representatives of the NGO sector.</p> <p>More clearly and better define the obligations of authorized personnel performing activities in the function of NPM, including experts and representatives of NGOs.</p>		of the Law)	budgetary funds)	organizations and institutions for the retention of persons deprived of liberty or persons whose movement is restricted (amendments or a new decision depending on the scope of the necessary changes stemming from the amendments of the Law).	
3.1.4	<p>Drafting of the Analysis with the register of jurisdictions of the Ombudsman as the NPM with proposals for establishing new organization and job descriptions. List all activities of the NPM. Indicate all activities of the NPM, pursuant to the law and regulations, and in accordance with the Optional Protocol. Analysed in detail and specified activities are the basis for grouping tasks in terms of complexity and scope, and determining the required number of employees for their performance, including specification of the required individual professional qualifications to perform these tasks for each job position. Proposed number of staff in the function of the NPM in the institution.</p>	The Ombudsman of Montenegro	June 2014	The budget of Montenegro / section Ombudsman EUR 4,860 (regular budgetary funds)	The Analysis with the register of jurisdictions of the Ombudsman as the NPM drafted, with proposals for establishing new organization and job descriptions. All activities of the NPM listed.	
3.1.5.	<p>Amending of the Rulebook on the Internal Organization and Job Descriptions of the Administrative and Technical Service of the Ombudsman of Montenegro in accordance</p>	The Ombudsman of Montenegro	June 2014	The budget of Montenegro / section	The amended Rulebook on the Internal Organization and Job Descriptions.	Special organizational unit formed for the activities of the NPM. Performing all activities



	with the proposals made in the analysis.			Ombudsman EUR 4,860 (regular budgetary funds)	Internal organization and job descriptions for performing activities of the NPM and protection from torture are adjusted to the amended jurisdictions of the Ombudsman as the NPM.	of the NPM provided in accordance with international agreements.
3.1.6	Recruit new employees for the job vacancies stipulated by the Rulebook on the Internal Organization and Job Descriptions: - 3 new officers for the protection of human rights in the work of general jurisdiction, - 2 new officers for prevention of torture and protection from torture, - 2 new officers for technical work.	The Ombudsman of Montenegro	March 2015 March 2016  March 2014 March 2015  March 2015 March 2016	Budget of Montenegro /section Ombudsman , Approximate increase in the budget for EUR 10,000 per one new employee in 2014; Increase in the budget for EUR 34,000 in 2015 for 3 new employees and for EUR 27,000 in 2016 for 2 new	The number of staff increased by one employee in 2014, 3 in 2015 and 2 in 2016.	

				employees.		
3.1.7	<p>Drafting of the Plan of professional and specialization trainings on prevention of torture and protection from torture and carrying out these trainings for:</p> <ul style="list-style-type: none"> <li>- training trainers (for employees working on prevention of torture and protection from torture in the institution of Ombudsman, as well as for experts and NGO representatives performing the activities of the NPM)</li> <li>- for the staff of authorities, organizations and institutions for retention of persons deprived of liberty or persons whose movement is restricted (continuously, at least once a year).</li> </ul>	<p>The Ombudsman of Montenegro</p> <p>The Ombudsman of Montenegro in cooperation with authorities, organizations and institutions in which people deprived of liberty, or persons whose movement has been restricted are placed</p>	<p>March 2014 (drafting of the Plan)</p> <p>April - December 2014 (training trainers)</p> <p>January – December 2015 at least once a year</p>	<p>The budget of Montenegro / section Ombudsman , EUR 4,860 (regular budgetary funds)</p> <p>The budget of Montenegro / section Ombudsman , EUR 5,000 for training (regular budgetary funds)</p>	<p>Plan of professional and specialization trainings adopted.</p> <p>Carried out trainings for trainers and employees working in authorities, organizations and institutions for retention of persons deprived of liberty or persons whose movement is restricted.</p>	<p>Prepared information on implementation of the Plan of professional and specialization trainings for trainers and employees working in authorities, organizations and institutions for retention of persons deprived of liberty or persons whose movement is restricted. Information publicly available on the website of the Ombudsman.</p>
3.1.8	<p>Drafting of the Plan of campaign for acquainting persons deprived of liberty or other persons whose movement is restricted with their rights and the powers of the Ombudsman regarding prevention and protection from torture.</p> <p>According to the drafted Plan implement the campaign for acquainting persons deprived of</p>	<p>The Ombudsman of Montenegro</p> <p>The Ombudsman of</p>	<p>September 2014</p> <p>September – December 2014</p>	<p>The budget of Montenegro / section Ombudsman , EUR 4,860 (regular</p>	<p>The Plan adopted. The campaign implemented in accordance with the Plan.</p> <p>Information brief on implementing the plan for the campaign prepared.</p>	<p>The awareness of persons deprived of liberty or other persons whose movement is restricted and citizens with their rights and access to the Ombudsman raised.</p>

	liberty or other persons whose movement is restricted and citizens with their rights and the powers of the Ombudsman regarding prevention and protection from torture (organizing meetings with persons deprived of their liberty, round tables, distributing flyers and brochures with the necessary information).	Montenegro in cooperation with authorities, organizations and institutions in which people deprived of liberty, or persons whose movement has been restricted are placed	January – December 2015 At least once a year	budgetary funds) The budget of Montenegro / section Ombudsman , EUR 6,000 (regular budgetary funds)	Information publicly available on the website of the Ombudsman.	
3.1.9	<p>a) Drafting of the four year Plan of visits to authorities, organizations and institutions for the retention of persons deprived of liberty or persons whose movement is restricted - The Plan includes the names of authorities of organizations and institutions for the retention of persons deprived of liberty, and persons whose movement is restricted, time of the visit, the team and the participants, time frames, specific activities, the necessary funds, etc. (to be specified for each year individually)</p> <p>b) Drafting of the annual plan of visits The Plan includes the names of authorities of organizations and institutions for the retention of persons deprived of liberty, and persons whose movement is restricted, time of the</p>	The Ombudsman of Montenegro	December 2013  December 2013 and continuously for each following year	<p>The budget of Montenegro / section Ombudsman , EUR 4,860 (regular budgetary funds)</p> <p>The budget of Montenegro / section</p>	The four year Plan of visits to authorities, organizations and institutions for the retention of persons deprived of liberty or persons whose movement is restricted is adopted (specified for each year individually) b) Annual Plan of visits to authorities, organizations and institutions for the retention of persons deprived of liberty or	Continuously prepared reports of the Ombudsman as the NPM based on the visits carried out by the NPM Team according to the established plan.

	visit, the team and the participants, time frames, specific activities, the necessary funds, etc.			Ombudsman , EUR 4,860 (regular budgetary funds)	persons whose movement is restricted – adopted and specified for each year individually	
3.1.10	Innovate the methodology for procedure of the NPM during visits to authorities, organizations and institutions for the retention of persons deprived of liberty or persons whose movement is restricted	The Ombudsman of Montenegro	December 2013	The budget of Montenegro / section Ombudsman , EUR 4,860 (regular budgetary funds)	Adopted innovated methodology for procedure of the NPM with regard to the characteristics according to types of authorities, organizations and institutions being visited.	Enabled a better picture of the situation and making reports more competent with the opinions and recommendations for improvement.
3.1.11	Drafting of the Report on the Prevention of Torture (offprint of the NPM, included in the annual report or a separate)	The Ombudsman of Montenegro	March 2014 March 2015 and continuously	The budget of Montenegro / section Ombudsman , EUR 5,600 (regular budgetary funds)	Special Report (or offprint of the Annual Plan) of Ombudsman as the NPM on the prevention of torture drafted and submitted to the Parliament of Montenegro, with the overview of the state of play, evaluations, conclusions and recommendations. Reports published on the Ombudsman's website	Improved assessment of the situation of human rights in Montenegro from the Report of the UN Council, CAT and CPT.  Increased level of implementation of recommendations of the UN, CAT and CPT.
3.1.12	Accreditation by the International Coordination Committee (ICC) for obtaining the status	The Ombudsman	December 2013	Approximately EUR	Accreditation obtained	Report of the UN Council, CAT and CPT.

	Strengthening of cooperation with the UN Human Rights Council, the UN Committee against Torture (CAT) and the European Committee for the Prevention of Torture (CPT)	of Montenegro	(submission of application). 2014 - and continuously	10,000 annually. The budget of Montenegro / Ombudsman	Activities implemented to strengthen the cooperation with the UN Human Rights Council, the UN Committee against Torture (CAT) and the European Committee for the Prevention of Torture (CPT).	Paris principles met for obtaining the status before the International Coordinating Committee (ICC)
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**3.2 Recommendation: Introduce an effective legal remedy in line with Article 13 ECHR to redress violations of human rights under the convention.**

In Article 20 of the Constitution of Montenegro everyone is guaranteed the right to legal remedy (Article 13 of the European Convention on Human Rights and Fundamental Freedoms) against a decision determining his right or interest based on law.

The right to legal remedy is an important element of protection of human rights and freedoms. By exercising this right, it is possible to eliminate violations of the law or possible abuses by State authorities when deciding on citizens' rights and freedoms contributing thereby to greater legal certainty and confidence in the actions of public authorities.

All procedural laws in Montenegro ensure the right to an effective legal remedy through ordinary and extraordinary legal remedies, which means that in case of violation of human rights protection can be sought in civil, criminal and administrative proceedings.

Specific legal remedy for the protection of human rights in Montenegro is a constitutional complaint on which the Constitutional Court shall render a decision. Constitutional complaints may be lodged by anyone who believes that his human right and freedom guaranteed by the Constitution was violated by an individual act of state authority, local self-government authority or legal person vested with public powers. Constitutional complaint may be lodged after all effective legal remedies have been exhausted. Moreover, the Protector of human rights and freedoms may, concerning complaint he has in work, lodge constitutional complaint if the complainant agrees with that.

When the Constitutional Court establishes that a challenged individual act violated a human right or freedom guaranteed by the Constitution, it shall grant the constitutional complaint and repeal that act, entirely or partially, and remand the case for repeat procedure to the authority which enacted the repealed act. When enacting the new act, the competent authority shall be obliged to observe legal reasons of the Constitutional Court expressed in the decision and to make the decision in repeat procedure within a reasonable time. Since effective legal remedy does not only mean the possibility of lodging a legal remedy against a decision of the right or interest determined by law, but also the possibility of the parties to exercise the right to trial within a reasonable time, which is guaranteed by Art. 6 paragraph 1 of the Convention, the Montenegrin legal system introduced legal remedies for the protection of trial within a reasonable time. Namely, the Law on protection of the right to trial within a reasonable time provided for the two legal means for protection: request to expedite proceedings (supervisory appeal) and an action for fair redress. The parties have the right to this type of judicial protection in civil, criminal and administrative proceedings, if the procedures are related to the protection of their rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms. The duration of a reasonable time limit shall be determined in accordance with the practice of the European Court of Human Rights. Moreover, the criteria for

deciding on legal remedies were taken from the practice of the European Court, so that the reasonableness of duration of the process is determined considering the complexity of the case in the factual and legal terms, conduct of the complainant, conduct of the court and other state bodies, local government bodies, public services and other holders of public authority and the interest of the complainant.

The party may file the supervisory appeal if he/she believes that the court unduly delays the proceeding and decision in the case and he/she files the supervisory appeal with the court in which the trial is underway. The president of the court decides on the supervisory appeal. When the president of the court determines that the proceeding and decision in the case are being unduly delayed, he/she will determine by the decision a deadline for taking certain procedural actions, which may not be longer than four months, as well as an appropriate time limit within which the judge must notify him/her about the taken actions. President of the Court may order the priority resolution of cases where the circumstances of the case or urgent nature of the case so requires. If the judge does not take measures determined by the decision on the supervisory appeal, as in other cases of non-compliance with the Law, the president may seize the assigned case in accordance with a separate law.

If the president of the court rejects or refuses the supervisory appeal or fails to render a decision, i.e. notification to the party within reasonable time, the applicant may lodge an appeal before the immediately higher instance court.

Other legal remedy available to the party is an action for fair redress, which may be filed by the party who has previously filed the request for expedited proceeding or by the party who objectively has not been able to file such request.

Fair redress for violation of the right to trial within a reasonable time may be achieved by:

- 1) payment of compensation for damage caused due to violations of the right to trial within a reasonable time and/or
- 2) publication of the judgment that the party has been violated the right to trial within a reasonable time.

The lawsuit is filed with the Supreme Court which decides in a panel of three judges, and is obliged to render a decision at the latest within four months from the day of receipt of the lawsuit. If the Supreme Court finds that there has been a violation of the right to trial within a reasonable time, it may upon request of the party, in addition to monetary compensation, order with a decision publication of the judgment. Judgment must be publicly available on the website for a period of two months, after which it is archived or deleted at the request of a party within 15 days of receipt of the request.

No.	Measure/Activity	Responsible authority	Deadline	Required funds/ Source of financing	Indicator of result	Indicator of impact
3.2.1	Conduct training for judges of ordinary courts on the effects and practice of the Constitutional Court's decision upon a constitutional complaint/appeal	Judicial Training Centre	January – December 2014 and continuously	Regular budgetary funds of the JTC	Number and type of training implemented Number and composition of participants	
3.2.2.	Conduct training for judges and advisors of the Constitutional Court on using the search practices of the European Court of Human Rights – HUDOC and relevant	Constitutional Court	January – December 2014 and continuously	Regular budgetary funds	Number and type of training implemented Number and composition of	

	judgements of this Court				participants	
3.2.3	Monitor the implementation of the Law on the Protection of the right to trial within a reasonable time	Ministry of Justice	January – December 2014 and continuously	Regular budgetary funds	Prepared report of the Ministry of Justice	Number of requests to expedite the proceedings in relation to the previous period Number of submitted claims for compensation in relation to the previous period.

**3.3. Recommendation: Fully implement the recommendations provided by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Improve prison conditions; measures to reduce the prison population, in particular alternative sanctions and conditioned sentencing could be further explored.**

#### CURRENT SITUATION

##### The Prison system

The system of enforcement of criminal sanctions is regulated by the Law on Enforcement of Criminal Sanctions, as a systemic law in this area, and secondary legislation which elaborates in more detail the rights and obligations of the persons enforcing criminal sanctions. Apart from these, the field of criminal sanctions is also regulated by the Criminal Code and the Criminal Procedure Code. The Law on Enforcement of Criminal Sanctions has not complied fully with the international documents and standards in this field for some time, and as regards practical application it exhibits certain discrepancies and insufficient flexibility. For the mentioned reasons, it has been found that new legal solutions are necessary which will regulate this field more comprehensively, incorporate international standards and enable better implementation in practice. Along these lines, the Action Plan for Improvement of Prison System for 2011-2012, adopted by the Government of Montenegro in September 2011, provides for adoption of two laws in the area of enforcement of criminal sanctions: The Law on Enforcement of Prison Sentences and the Law on Enforcement of Alternative Sanctions. With the view to improving the existing legislative and general legal framework and promoting alternative sanctions, in 2011, the project "Support to the Reform of the System of Enforcement of Criminal Sanctions" was completed. Since January 2013, through the IPA Twinning Project "Support to the Reform of the System of Execution of Criminal Sanctions," the set of activities in this area has continued.

In line with requirements arising from the need to set up effective institutional framework, the Probation Division was staffed, in accordance with the Rulebook on Internal Organization and Job Descriptions of the Ministry of Justice of 18 February 2012, with three civil servants.

Given the importance of the recommendations of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), it is important to note that a delegation of the Committee, in February 2013, visited Montenegro and provided three preliminary (urgent) recommendations relating to the prison system <http://www.cpt.coe.int/documents/mne/2013-02-25-eng.htm>. In the preliminary recommendations of the CPT, as a matter of urgency, the need for the renovation of rooms and toilets in Ward A of the Correctional home is highlighted. Upon the recommendation actions have been taken and a tender for the procurement of materials and selection of the contractor has already been announced. Another recommendation relates to the sentenced person (the person referred to in paragraph 68 of the CPT's report from 2008) for whom the CPT's delegation urgently requested to be transferred to an appropriate

psychiatric institution. Also, action has been taken following this recommendation and the transfer (legal procedure is almost completed) of the said person sentenced to a psychiatric institution in Serbia is underway, since this person is the citizen of Serbia. Another recommendation relates to the sentenced person who was unable to walk and he was denied access to toilets and showers. In relation to this recommendation action has been taken in such a way that a wheelchair was purchased for this sentenced person and a person who will help him when moving in and out of the room in which he resides was identified. The last preliminary recommendation of the CPT's delegation referred to health care and to the extent that the medical examination of prisoners must be done within 24 hours after admission to prison. The delegation during the visit found that the examination of newly arrived prisoners was performed in the range of seven to 30 days. In connection with this, immediately after the visit of the delegation, the Instruction on Operation of the Health Service of the Institute for Execution of Criminal Sanctions was issued, requiring mandatory examination of prisoners within 24 hours from the moment of arrival to prison.

By the end of June 2013, a regular report of the CPT is expected, whose recommendations will be carefully monitored through this Action Plan (measure 3.3.9). Also, it is important to note that in accordance with the recommendations of the CPT, the Institution for Enforcement of Criminal Sanctions adopted in 2012 the Strategy on the Prevention of Abuse and Violence among Inmates, comprehensively regulating this matter. The CPT report for 2008, <http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.pdf>, provided 36 recommendations. So far 6 recommendations listed in the tabular section of this Action Plan remained unfulfilled. These relate to: 1. construction of the prison of Bijelo Polje (measure 3.3.4) and several other recommendations that can be considered fulfilled only with the construction of this facility and relate to the premises for visits to prisoners, construction of sports facilities and a library; 2. Certain problems related to medical examinations of prisoners (measure 3.3.6); 3. Increasing the number of psychiatrists in the Correctional home and Remand Prison (measure 3.3.5); 4. Increasing the number of employees in the health sector at the Institution for Enforcement of Criminal Sanctions (measure 3.3.5); 5. Providing training and education programs for prisoners and staff of the Institution (measures 3.3.2 and 3.3.3); 6. Visits of extramarital partners to prisoners (measure 3.3.1).

Regarding recommendations 3 and 4 relating to hiring a psychiatrist and an increase in the number of employees in the health sector of the Institution for Execution of Criminal Sanctions, currently in the Institution there is one psychiatrist hired according to the service contract and in the health service from a total of 15 systematized working positions for medical technicians there are 12 of them employed. The missing number of medical technicians and permanent regulation of employment of the psychiatrist will be realized by the beginning of 2015.

In the first half of 2013, the investigative jail and prison for short sentences were renovated. This greatly improved accommodation capacities of these prison units. Especially, sanitary facilities were renovated and electrical power supply and water supply system improved, with the cost of construction works amounting to EUR 300,000.00 (capital budget). In addition, during the current year, reconstruction of the semi-open prison unit in Bijelo Polje, with the cost of works amounting to EUR 100,000.00 (budgetary funds for 2013 provided – capital budget). Also, renovation of the semi-open prison unit in Spuž will start during the current year.

A particularly important element in this segment is the education and training of personnel for professional activities in these departments. In this sense, besides cooperation and permanent training that will be carried out by partners in the IPA Twinning project "Support to the Reform of the System of Execution of Criminal Sanctions", training will be carried out in cooperation with the Police Academy, the Judicial Training Centre and some university units. At the same time, cooperation was established with the Office of UNICEF in Montenegro, with whose support the conditions for the execution of juvenile imprisonment will be significantly improved.

Implementation of alternative sanctions and measures will significantly contribute to reducing the prison population, which will, in addition to the construction,



reconstruction and expansion of prison accommodation facilities, contribute to having a minimum 4m<sup>2</sup> of space available to each inmate who is in prison. In accordance with Recommendation R (2000), paragraph 15, which refers to the importance and role of the media regarding the execution of alternative sanctions, recognizing the importance of this issue, Montenegro plans to prepare a media strategy that can greatly help better and more efficient implementation of alternative sanctions in practice.

Implementation of the CPT recommendation from 2008 related to the Police Directorate

The Police Directorate has, within its competencies in the period from 2008 - 2013, intensified activities and has taken a number of measures to implement the recommendations of the CPT Report - <http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.pdf>. A great number of shortcomings in the treatment of detainees, which the Committee had pointed out, have been removed. In particular, hygienic and technical conditions of the premises for detention of persons deprived of liberty have been improved. The premises were renovated in most regional and branch offices, in accordance with CPT standards and recommendations. Starting from conditions described in the CPT report, a serious improvement has been made in relation to: providing the required number of premises for retention according to the prescribed standards; surface and equipment; lighting of the premises; hygiene; ventilation, heating and cooling; equipment of toilet facilities and full access to the drinking water; establishing communication with detainees; coverage of video surveillance system; coverage of the electric closets, vehicles equipment; removal of opportunities for torture and inhuman treatment; keeping prescribed records and number of people trained and in charge for performing the activities of retention.

The Ministry of Interior has prepared the Information on the fulfilment of the CPT's recommendations which stated that all the regional offices in: Podgorica, Niksic, Budva, Bar, Herceg Novi, Bijelo Polje, Berane and Pljevlja, as well as in branch offices in Ulcinj, Kotor, Tivat, Cetinje, Danilovgrad, Kolasin, Mojkovac, Andrijevica, Plav, Rozaje, Zabljak, Pluzine and Savnik, in all areas for retention, to the extent possible, have provided: access to drinking water, daylight by setting the so-called "anti-vandal" glass - windows, ventilation system and blowing hot and cold air (except Savnik and Zabljak), wooden chairs, toilets, either in the premises for retention or as an annex to the premises. Each detainee has been given the so-called "Information Sheet for detainee", whose admission is confirmed by all detained persons by personal signature. The Information sheet was published in several languages, and within it are the rights of detained persons.

The Ministry of Interior has also prepared the Action plan for implementation of recommendations and elimination of irregularities detected during the visit of the CPT in the 2013, as follows:

- that all available capacities of the control and supervisory authorities of the Ministry of Interior - the Police Administration are put in function for monitoring whether the legislation is applied by all employees of the Ministry, and that, in case of violation of norms, tough measures are taken, which will result in respect of human rights when it comes to this area;
- that managers of relevant organizational units take the necessary measures to urgently improve all of the conditions in detention premises, in accordance with the recommendations of the Preliminary report of CPT;
- that the competent services of the Ministry of Interior proceed with the proposed investment in "Project facilities for detention of detainees", which in a very precise way examines the current situation and provides appropriate guidance and sets priorities for future investments required, thus this issue is fully brought to the proper level;
- by signing the Memorandum on monitoring facilities for detention of detainees between the Ministry of Interior, SSP and one or more NGOs, by which it will be able to monitor the detention rooms, inspect the documentation of retention and verify if the process was conducted in accordance with the norms of national

and international law.

Reform process of social welfare and child care

In accordance with the planned reform process of social welfare and child care, in accordance with EU and UN standards, "Transformation of the PI Komanski most" is set as a priority task of the project in the field of social welfare and child care. This transformation plan is developed to support the institutional, structural and organizational transformation of the institution "Komanski most". The plan focuses on the prevention of further reception of beneficiaries and gradual deinstitutionalization of the current residents, through the development of independent living skills and adequate alternative services within the family and community, and is based on the principles and attitudes of the UN Convention on the Rights of Persons with Disabilities.

Bearing in mind the fact that establishing new services is a time consuming process, activities were undertaken in the Public Institution "Komanski Most" to separate children from the adults. The refurbishment and equipping of the space for children within the Institution area has been completed. The refurbished space includes bedrooms, living room, dining room with mini kitchen, bathrooms and mini laundry room. The space is adapted to the needs of children. Within the children ward, there is a separately enclosed park for children with adequate equipment. Thus, the children are completely separated from the adults which certainly does not imply their isolation from the external environment, as through the system of special education these children are being integrated into the community. Educators and carers work with children and in working with them they apply a method of intensive interaction in which they were specially trained by UNICEF experts. The work with children includes also a physiotherapist, psychologist and speech therapist who work individually with every child. Individual plans for children, which are revised every three months, have been prepared in "Komanski most" in cooperation with the Ministry of Labour and Social Welfare, social work centres and experts engaged by UNICEF.

In the Public Institution "Komanski most", wards for accommodation of men were refurbished, Ward A, as well as Ward B for women, and their facilities have been fully adapted to the needs of beneficiaries. Conditions have been created for positive therapeutic environment, protection of privacy, whereby their living conditions and quality of life were largely improved. Equipping of sensor room in Ward A, equipping of isolation room in Ward B and equipping of room for physical rehabilitation was also completed.

Apart from refurbishment of the wards for accommodation of beneficiaries, dining room, kitchen and storage room have also been refurbished. Apart from these, a well has been drilled and irrigation system laid out. Central heating boiler-room was constructed, and installation of central heating is under preparation, for which project documentation was completed. Public lighting was installed within the area of the Institution and around the Institution, including video surveillance.

Conditions in the Institution regarding personal hygiene of beneficiaries and rooms in which they live have been improved. Necessary hygiene materials and cosmetic products are regularly supplied and used for personal hygiene. In both wards, there are machines for washing and drying laundry. Professional products are used daily for maintaining the hygiene in the institution, while a special service providing the services of disinfection, desinsection and deratisation of the premises is engaged every six months.

Health supervision and hygiene treatment of the beneficiaries is provided continuously for 24 hours, and accordingly the nurses and carers work in shifts. Primary health protection is focused on implementing hygiene, dietetic and medication treatment. With the view to providing comprehensive health protection, the Institution engages professional associates such as: general practitioner, neuropsychiatrist, dentist, gynaecologist, twice a week and when necessary, and a physiatrist once a week and when necessary.

Full check-up examinations of all beneficiaries are performed each year, which include laboratory tests, RTG and internist examination. In late 2011, a

gynaecological clinic started to work. The hired dentist provides regular dentist services. Physical therapy is an important segment of medical therapy for improvement of health of persons with severe disabilities. Therefore, equipping room for physiotherapy in the Institution led to significant improvement in physical health of the beneficiaries, and also in their psychomotor stability. Physiotherapist applies one of the forms of physical therapy which is prescribed by the physiatrist.

In the Institution, there is a Protocol on how to proceed in cases of extreme anxiousness and aggressiveness of the beneficiaries, but fixation or physical restraining of beneficiaries has not been applied since April 2010.

One of regular activities of social work centres is to encourage parents-guardians and families to maintain contact with the beneficiaries, which is regularly reported on at the meetings in the Institution. In the same way, the Institution makes efforts to create conditions for as many such visits by relatives as possible by covering their travel expenses.

In order to achieve the highest possible quality of care for the beneficiaries, increasing the number of staff remains a priority. Education of staff of Public Institution "Komanski Most" is one of the main activities, which is being continuously implemented within the planned reform of the Institution. Professional staff visited several similar institutions in the region, in order to exchange experience and gain new knowledge, and a study visit to Finland was also organized. Furthermore, within the Project of Transformation of Public Institution "Komanski most" expert consultants are regularly engaged with the assistance of international organizations, and they provide a large number of training in the field of human rights, and also in the field of specific expert methods and procedures related to persons with intellectual disabilities.

At the moment, the Ministry of Labour and Social Welfare performs expert supervision over the work of the Institution, involving entire work of the institution, focusing in particular on professional work, which is also implemented through monthly meetings with the representatives of all social work centres. Apart from the Ministry of Work and Social Welfare and the CPT, the work of Komanski most is also regularly supervised by the Ombudsman, as well as the Monitoring Team of several NGOs, led by the Action for Human Rights. The assessment of progress in current situation has been noted, in raising the quality of care for and relationship towards the beneficiaries of services of the Institution, which has been implemented in the previous period in line with the available financial resources of the State and new personnel solutions. In order to achieve an even higher level of control of personnel of the Institution, boxes were placed by the Ombudsman for complaints by the beneficiaries and their guardians and parents.

Law on the Protection of Rights of Mentally Ill Persons (Official Gazette of the Republic of Montenegro 32/05) has been harmonized with the European Charter and recommendations of the World Health Organization and recognized contemporary standards in treatment and therapy for mentally ill persons. Continuous process of improving the protection of rights of these persons resulted in drafting the Proposal for a Law Amending the Law on the Protection of Rights of Mentally Ill Persons which is currently undergoing the parliamentary procedure of adoption. The proposed law improves the protection of the rights of these persons, of which the most important one is the prohibition of surgical treatment of mental illnesses, prohibition of biomedical research, time limitation of measure of physical isolation. The proposed law included the recommendations of the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment.

The living conditions in Dobrota Special Hospital were also significantly improved, inter alia, through implementation of a twinning project, in the effort to comply with contemporary standards in medical treatment of the mentally ill persons and recommendations of the EU Committee in the circumstances of limited resources. However, the problem which has persisted for many years is the inability to dislocate court division from the Hospital, as there is no prison hospital within the Institution for Enforcement of Criminal Sanctions. This is exhausting financial resources of the Hospital which funds guards for the convicts

from its own resources. The Hospital has no capacity for adequate accommodation of such persons. Therefore, the implementation of the project of constructing a prison hospital is of utmost importance for the implementation of legislative solutions and contemporary standards in the protection of rights of mentally ill persons. Improving conditions requires multi-departmental approach for the category of social cases who have nowhere to go and remain in the Hospital, and who do not require further treatment. Therefore, the Action Plan identifies multi-departmental activities whose implementation will enable improvement of conditions of medical treatment and living conditions of mentally ill persons, having effect also on public awareness in order to reduce stigma.

No.	Measure/Activity	Responsible authority	Deadline	Required funds/ Source of financing	Indicator of result	Indicator of impact
<b>MONITORING THE CPT RECOMMENDATIONS FOR 2008 and 2013</b>						
3.3.1	Adopt the Law on the Enforcement of Prison Sentences; - Greater degree of incorporation of provisions of the European Prison in part related to improvement of the system of visits, introduction of a new form of protecting the rights of prisoners through multi-degree decision-making in administrative proceedings and administrative disputes and introduction of new measures of protective supervision of conditionally released prisoners; - New concept of the Commission for Probation Release; - visits of extramarital partners to prisoners.  Recommendation from the CPT report for 2008.	Ministry of Justice	December 2013	Budget, IPA 2011 Twinning Project MN 11 IB JH 01 “Support to the Penitentiary Reform in Montenegro”; Budget of the EC: EUR 700,000, Co-financing: (total) EUR 45,000, EUR 4,359 for this component; Component for improving the legislative framework EUR 67,808.00	Law on the Enforcement of Prison Sentences adopted;	CPT recommendation fulfilled. The CPT reports ascertained higher degree of compliance of the law with ECHR and European Probation Rules, as well as EU legislation.
3.3.2	Drafting a plan and program for the training	Ministry of	December	Budget;	Program for the	CPT recommendation fulfilled.

	<p>of officers of the Institution for Enforcement of Criminal Sanctions in the area of application of the Law on Enforcement of Prison Sentences</p> <ul style="list-style-type: none"> <li>- Prepared analysis of the situation and the need for further training in some segments of the Law;</li> <li>- Provided statistics on current professional qualifications of employees in the Institution for Enforcement of Criminal Sanctions, for the purpose of developing a training program. Implementation of the training program.</li> </ul> <p>Recommendation from the CPT report for 2008.</p>	Justice and Institution for the Enforcement of Criminal Sanctions - Centre for the staff of the organization	2013 January – December 2014 and continuously	IPA 2011 Twinning Project MN 11 IB JH 01 “Support to the Penitentiary Reform in Montenegro”, Budget of the EC: EUR 700,000 Co-financing: in total EUR 45,000, EUR 8,457 for this Component; Total project value – EUR 700,000.00 Component for improving the prison management and introducing good practice – EUR 131,558.00	training- drafted, Plan of training of officers of the Institution for Enforcement of Criminal Sanctions in the area of application of the Law on Enforcement of Prison Sentences - implemented. Report on the number of officers who participated in the training.	CPT report of the conditions in the Prisons; Report of the UN Human Rights Committee; Report of the Ombudsman; Report of the NGOs dealing with the monitoring of human rights in prisons.
3.3.3	<p>Drafting the plan of education, vocational training and working treatment of convicts and juveniles who are serving a prison sentence based on:</p> <ul style="list-style-type: none"> <li>- Analysis of the current situation and need for working treatment of convicts;</li> <li>- Analysis of the current situation and need</li> </ul>	Ministry of Justice, Institution for the Enforcement of Criminal	December 2013 January – December 2014 and continuously	Budget EUR 4,450 (working group consisting of five members, effective work of 1 month)	Plan - elaborated and carried out, Statistical data on the number of convicted persons and juveniles who are serving a prison	CPT recommendation fulfilled. CPT report of the conditions in the Prisons; Report of the UN Human Rights Committee; Report of the Ombudsman; Report of the NGOs dealing

	<p>for elementary and secondary education and vocational training of convicts.</p> <p>- Analysis of the current situation and program of literacy training for convicts where this need was identified.</p> <p>Implementation of trainings according to the designed program.</p> <p>Recommendation from the CPT report for 2008.</p>	Sanctions, Ministry of Education	ly		<p>sentence who acquired vocational qualifications;</p> <p>Enlarged number of books in the prison library;</p> <p>Report of the Institution for Enforcement of Criminal Sanctions on the benefits accomplished through the working treatment of the convicted persons;</p> <p>Conducted surveys among the prison population of the need for literacy training.</p> <p>Obtained certificates/diplomas on the acquired elementary and secondary education as well as on the acquired degree of vocational education.</p>	<p>with the monitoring of human rights in prisons.</p> <p>A greater degree of vocational training and working treatment of convicts and juveniles who are serving a prison sentence achieved compared to the previous period.</p>
3.3.4	Construction of the Prison of Bijelo Polje.	Ministry of Justice	First quarter	Approximate cost estimates ~	Constructed Prison of Bijelo Polje;	CPT recommendation fulfilled.

	<p>Moreover, with the construction several more recommendations are being implemented, as explained in the introductory section.</p> <p>Envisaged number of posts 150;</p> <p>Note: We had one round of negotiations with the Council of Europe Development Bank. The technical mission on elaboration of the feasibility study is to follow by the end of the year, in order to define the scope and cost of this investment.</p> <p>Recommendation from the CPT report for 2008.</p>		2015 – the beginning of construction works, phase I	<p>EUR 5,950,000 Land (plot) provided by the Municipality of Bijelo Polje;</p> <p>Additional funding required potentially through a loan from the Development Bank of the Council of Europe</p> <p>NOTE: After elaborating the feasibility study we can provide dynamics of construction of the prison of Bijelo Polje.</p>	<p>Reduced overload in the prison and better living and working conditions of persons serving prison sentences;</p> <p>Workshop facilities for sporting activities and a library for prisoners constructed.</p>	
3.3.5	<p>Strengthen the capacity of health services at the Institution for Enforcement of Criminal Sanctions by employing the remaining medical personnel, as follows:</p> <p>1 doctor - psychiatrist 3 medical technicians.</p> <p>Recommendation from the CPT report for 2008.</p>	Ministry of Justice, Institution for Enforcement of Criminal Sanctions	Fourth quarter of 2015	<p>Additional budgetary funding required in 2014 for 3 new employees.</p> <p>Note: in 2013 the annual budget costs for</p>	<p>Employment status regulated for 1 doctor - psychiatrist.</p> <p>3 new medical technicians employed.</p>	CPT recommendations 3 and 4 from report for 2008 fulfilled

				one employee amounted to EUR 6,144.00		
3.3.6	Conduct initial and thematic training for all police officers on the prohibition of torture during arrest, detention and subsequent police investigation in order to ensure "zero tolerance of abuse." Recommendation of the CPT Report for 2008. year.	Police Academy	January-December 2014 and continuously	Regular budgetary funds provided	Number and type of trainings carried out Number and composition of participants.	Reduced number of complaints about the conduct of police officers during arrest, detention and subsequent police investigation
3.3.7	Conduct investigations on appeals for exceeding police powers and unlawful use of force by the police recommendation of the CPT Report for 2008. year.	Police Directorate and Ministry of Internal Affairs	January 2014 and continuously	Regular budgetary funds provided	Prepared and published annual report containing; - number of investigations conducted upon the citizens complaints and ex officio - number of complaints from citizens concerning exceeding police powers and unlawful use of force by the police against the police officers; - the number of disciplinary actions; - the number and types of disciplinary	Number of sanctioned police officers compared with number of complaints submitted



					sanctions;	
3.3.8	<p>Adopt Instruction on medical examination at the Institution for Execution of Criminal Sanctions.</p> <p>Recommendation from the CPT report for 2008 in relation with urgent CPT recommendation from 2013.</p>	<p>Ministry of Justice; Institution for Enforcement of Criminal Sanctions</p>	June 2013	Budget, EUR 810.00	<p>Instruction on medical examination already adopted.</p>	<p>CPT recommendation fulfilled. Medical examination of persons who come to prison performed within a period of 24 hours from the moment of arrival to prison according to the recommendation of the CPT.</p> <p>A higher level of health care for prisoners achieved.</p>
3.3.9	<p>Refurbishing of Ward A in the Correctional facility for long sentences in the Institution for the Enforcement of Criminal Sanctions.</p> <p>Urgent CPT recommendation from 2013.</p>	<p>Ministry of Justice, Institution for the Enforcement of Criminal Sanctions, Directorate of Public Works</p>	May/June 2013	Funding provided from the budget for 2013 - EUR 9,000;	<p>Renovated and refurbished rooms with private bathroom facilities used by prisoners.</p>	<p>CPT recommendation fulfilled. Improved living conditions of prisoners.</p>
3.3.10	<p>Transfer a convicted person (Serbian citizen) into the relevant psychiatrist clinic in Serbia.</p> <p>Recommendation from the CPT report for 2008 in relation with urgent CPT recommendation from 2013.</p>	<p>Ministry of Justice, Institution for Enforcement of Criminal Sanctions</p>	October 2013	Regular budgetary funds provided EUR 250	<p>Convicted person transferred.</p>	<p>CPT recommendation fulfilled.</p>
3.3.11	<p>Monitor implementation of the recommendations from the regular CPT report for 2013.</p>	<p>Ministry of Justice, Institution</p>	Continuously until the next	Regular budgetary funds	<p>Report on the level of implementation of the CPT</p>	<p>CPT recommendations fulfilled.</p>

		for the Enforcement of Criminal Sanctions	regular CPT report		recommendation drafted – once a year.	
<b>IMPROVEMENT OF THE CONDITIONS IN PRISONS</b>						
3.3.12	Adopting Rulebook on house rules for the enforcement of criminal sanctions - incorporating international standards regulating the life and work of the convicted persons with special reference to the capacity overload - achieving a greater degree of working treatment of convicted persons.	Ministry of Justice	July 2014	Budget, EUR 810.00 (Regular activities of one employee in duration of one month)	Rulebook on house rules for the enforcement of criminal sanctions – adopted Made available to any convicted person serving a prison sentence.	Greater degree of equality among the prison population accomplished; Statistical data on the employed convicted persons who are serving prison sentence; Report on the benefits realized through the employment of a convicted person.
3.3.13	Adopting Rulebook on conditions which have to be fulfilled in rooms for the accommodation and work of convicted persons.	Ministry of Justice	July 2014	Budget, EUR 810.00 (Regular activities of one employee in duration of one month)	Rulebook on conditions which have to be fulfilled in rooms for the accommodation and work of convicted persons – adopted.	CPT report of the conditions in the Prisons; Report of the UN Human Rights Committee; Report of the Ombudsman; Report of the NGOs dealing with the monitoring of human rights in prisons.
3.3.14	Adopting Rulebook on the uniform, titles and badges title of the Security Sector officers in the Institution for Enforcement of Criminal Sanctions;	Ministry of Justice	September 2013	Budget, EUR 810.00 (Regular activities of one employee in duration of one month)	Rulebook on the uniform, titles and title badges of the Security Sector officers in the Institution for Enforcement of Criminal Sanctions	

					adopted.	
3.3.15	Adopting Instruction on keeping the central record and personal files of prisoners, persons sentenced for misdemeanour and detained persons.	Ministry of Justice	July 2014	Budget, EUR 810.00 (Regular activities of one employee in duration of one month)	Instruction on keeping the central record and personal files of prisoners, persons sentenced for misdemeanour and detained persons – adopted.	
3.3.16	Adopting Instructions on the production and use of uniforms for persons serving prison sentences; Provide uniforms for persons serving prison sentences.	Ministry of Justice	July 2014 December 2014 procurement of uniforms	Budget, EUR 810.00 (Regular activities of one employee in duration of one month)	Instructions on the production and use of uniforms for persons serving prison sentences - adopted; Uniforms provided.	Survey among the prison population on the use of uniform; Greater degree of equality within the prison population accomplished.
3.3.17	Design a training program and plan for employees working in the Institutions for Enforcement of Criminal Sanctions on treatment of juveniles to whom criminal sanctions have been imposed on the basis of <ul style="list-style-type: none"> <li>- the prepared analysis of the situation and the need for further training in some segments of the Law;</li> <li>- provided statistics on current professional qualifications of employees in the Institution for Enforcement of Criminal Sanctions.</li> </ul> Implementation of trainings according to the designed training program.	Ministry of Justice, Institution for the Enforcement of Criminal Sanctions - Centre for the organization	June 2013 January – December 2014	Budget; Additional funding provided UNICEF - EUR 14,000.00	Training program for employees working in the Institutions for Enforcement of Criminal Sanctions on treatment of juveniles to whom criminal sanctions have been imposed – elaborated and implemented Number and type of trainings carried out Number and composition of participants.	CPT report of the conditions in the Prisons; Report of the UN Human Rights Committee; Report of the Ombudsman; Report of the NGOs dealing with the monitoring of human rights in prisons. A greater degree of cooperation with the UNICEF Office in Montenegro achieved.

3.3.18	Conducting effective investigations of allegations of abuse at the Institution for the Enforcement of Criminal Sanctions.	Ministry of Justice, Institution for the Enforcement of Criminal Sanctions, and other competent authorities for conducting this type of investigation	December 2013 December 2014 and continuously	Budget EUR 38,880 Annual budget for four employees	Number of persons who possibly may have been abused during their stay at the Institution for the Enforcement of Criminal Sanctions. Report on conducted investigation on the possible abuse of persons who have resided or reside in the Institution for the Enforcement of Criminal Sanctions.	Any form of possible further abuse of persons residing in the Institution for the Enforcement of Criminal Sanctions – prevented, Legal measures against all persons who in any way participated in the abuse of prisoners – taken, Improved assessment of the situation in the next CPT report.
3.3.19	Sign agreements on cooperation with non-governmental organizations dealing with human rights-related issues in order to facilitate the monitoring of prison units and participation in the reintegration and resocialization of inmates for life in the community by the civil sector.	Ministry of Justice	December 2013 December 2014 and continuously	No funds required	Number of signed agreements on cooperation with NGOs and other legal entities aiming at transparent execution of criminal sanctions and providing assistance in this segment; Report on activities implemented on the basis of agreements signed.	Increased number of persons whose successful reintegration and resocialization for life in the community was achieved as compared with the previous period. Increased number of prisoners who are treated for withdrawal from narcotics, implemented by some non-governmental organizations, in cooperation with relevant institutions.
3.3.20	Refurbishing and equipping prison kitchen	Ministry of Justice,	September –	Funding provided from	Prison kitchen refurbished;	

		Institution for the Enforcement of Criminal Sanctions, Directorate of Public Works	December 2013	the budget for 2013 – EUR 150,000.00	Better food quality; Increased control of food products; New equipment for food preparation purchased.	
3.3.21	Construction of the stationary health prison unit - Spuž; Envisaged number of posts - 40	Ministry of Justice, Institution for the Enforcement of Criminal Sanctions	2015	Approximate cost estimates ~ EUR 2,700,000  Required funding through IPA II programming for 2014 – 2020	Constructed stationary health prison unit - Spuž; Better system of health care and provision of medical care harmonized with the EU standards; Report on the reduction of treatment costs of prisoners in relation to the period before the construction.	
3.3.22	The construction of the Ward Ain the Correctional facility for long sentences in the Institution for the Enforcement of Criminal Sanctions.	Ministry of Justice, Institution for the Enforcement of Criminal Sanctions	As of March 2014, the beginning of construction works, phase I	Funds requested from the capital budget for 2014 EUR 695,000.00	Beginning of the works, provided that the funding from the 2014 capital budget is approved.	Provided better conditions for accommodation of prisoners.

**UPGRADING THE SYSTEM OF ALTERNATIVE SANCTIONS AND MEASURES**

3.3.23	<p>Adoption of the Law on execution of the suspended sentence and the sentence of community service that will provide Compatibility with the European Probation Rules, particularly in relation to:</p> <ul style="list-style-type: none"> <li>- Provision of post-penal assistance to the convicted person and taking measures for the purpose of reintegration and re-adaptation in the community</li> <li>- More humane and economic manner of enforcement of criminal sanctions through enforcement of the penalty of community service</li> <li>- Providing assistance to the injured parties and the crime victim;</li> <li>- Expert control, providing assistance and implementation of protection surveillance of the conditionally released prisoners.</li> </ul>	Ministry of Justice	December 2013	<p>Budget, Funding from the IPA 2011 Twinning Project MN 11 IB JH 01 “Support to the Penitentiary Reform in Montenegro”, Budget of the EC: EUR 700,000 Co-financing: in total EUR 45,000, EUR 4,359 for this Component; Component for improving the legislative framework EUR 67,808.00</p>	<p>Law on Enforcement of Alternative Sanctions - adopted;</p>	<p>The CPT reports ascertained higher degree of compliance of the law with ECHR and European Probation Rules, as well as EU legislation</p>
3.3.24	<p>Implementation of the Law on execution of the suspended sentence and the sentence of community service</p> <ul style="list-style-type: none"> <li>- sign agreements with legal entities where the penalty of community service will be enforced and monitor its implementation</li> <li>- Provide expert control, assistance and enforcement of protective supervision of conditionally released prisoners.</li> </ul>	Ministry of Justice	December 2014	<p>Budget, Funding from the IPA 2011 Twinning Project MN 11 IB JH 01 “Support to the Penitentiary Reform in Montenegro”,</p>	<p>Agreements signed with legal entities where the penalty of community service will be enforced; Statistical data on the number of persons serving sentence of</p>	<p>Number of alternative sanctions imposed in relation to the total number of convicted persons, Prison population and the number of relapses in criminal offenders reduced compared to the previous period;  Increased percentage of the</p>

				<p>Budget of the EC: EUR 700,000  Co-financing: in total EUR 45,000, EUR 10,007 for this Component;  Component of improving the work of the Division for Probation Release (Probation Service) EUR 155,672.00</p>	<p>community service. Statistical data on the reduction of prison population and the number of relapses in criminal offenders, Statistical data and reports of the Division for Probation Release on the cost of the enforcement of alternative sanctions; Annual reports on the benefits acquired through alternative manners of the enforcement of criminal sanctions; Statistical data on the employment of persons on parole.</p>	<p>employed persons on parole.</p>
3.3.25	Adopting Rulebook on performing probation jobs.	Ministry of Justice	July 2014	<p>Budget, EUR 810.00 (Regular activities of one employee in duration of one month)</p>	<p>Rulebook on performing probation jobs adopted; Statistical data on the number of persons involved in the probation;</p>	

					Statistics and registration of legal entities, as well as other bodies and organizations involved in the probation jobs.	
3.3.26	Adopting Rulebook on the official identification cards of officers of the Division for Probation Release	Ministry of Justice	July 2014	Budget, EUR 810.00 (Regular activities of one employee in duration of one month)	Rulebook on the official identification cards of officers of the Division for Probation Release - adopted	
3.3.27	Drafting of the media strategy on alternative sanctions and implementation of the campaign for concluding agreements with legal entities and other bodies and organizations for the purpose of the enforcement of the penalty of publicly useful work	Ministry of Justice NGOs	December 2013	Budget; Additional donor funding required, IPA 2011 Twinning project MN 11 IB JH 01, "Support to the Penitentiary Reform in Montenegro", Budget of the EC: EUR 700,000 Co-financing: in total EUR 45,000 (Planned	Drafted media strategy on alternative sanctions; Statistical data on the number of legal entities and other bodies and organizations engaged in the process of enforcement of the penalty of publicly useful work;	Improved public awareness on the importance and benefits of alternative punishing; Annual report on the benefits accomplished through the enforcement of alternative sanctions;



				activity on preparing a communication strategy/action plan for strengthening public awareness of the Probation Service, value - EUR 14,994.00)		
<b>KOMANSKI MOST</b>						
3.3.28	Enhance staff capacities in the Public Institution "Komanski most" through additional recruitment of one general practitioner, defectologists, nurses and other professional workers	Ministry of Labour and Social Welfare and PI "Komanski most"	December 2013 December 2014 December 2015 December 2016	Regular budgetary funds EUR 25,000 Regular budgetary funds EUR 38,800 Regular budgetary funds EUR 38,800 Regular budgetary funds EUR 38,800	Increased number of employees	
3.3.29	Carry out education of the employees in the Public Institution "Komanski most", daily centres for the work with children and adults with intellectual disabilities, social work centres, as providers of different services for	Ministry of Labour and Social Welfare and PI	December 2013 December 2014	Budget additional funding required / international – /	Number and type of training implemented. Number and composition of	Qualified staff to work with persons with intellectual disabilities, in order to increase the skills and competencies to work with the specific needs of

	the NGO sector employees, in line with the standards in this area	“Komanski most” day care centres, centres for social work, NGOs that provide services to children with disabilities and adults with intellectual disabilities	and continuously	organizations - UNICEF, UNDP EUR 10,000  Budget - Additional funding required EUR 10,000	participants.	users
3.3.30	Provide individual treatment and monitoring of planned goals from the individual plans for the protection of persons with disabilities residing in the Public Institution “Komanski most”	Ministry of Labour and Social Welfare, PI “Komanski most”, centres for social work, parents/guardians, the beneficiaries themselves in accordance with their	September 2013 and beyond, annually	Regular budgetary funds EUR 3,535	Individual plans with short evaluation deadlines developed Report of the Public Institution “Komanski most” on the results of individual treatment Prepared.	Annual Ombudsman’s Report on the Human Rights of Institutionalized Mentally Ill Persons, Report of the NGO monitoring team on the situation in the social and child protection institutions.

		capabilities				
3.3.31	Developing a plan for the transformation of the Public Institution „Komanski most“ into the institution for supporting the adults who are not capable of living independently to introduce a broader spectre of services provided by the Institute “Komanski most”, which will provide technical support to other local services in working with children with disabilities and adults with intellectual disabilities	Ministry of Labour and Social Welfare, PI “Komanski most”	September 2014	Regular budgetary funds EUR 6,480	The plan for the transformation of the Public Institution adopted. Number of consultations and measures of expert support and supervision implemented in relation to other service providers in local communities intended for the adults with intellectual disabilities	Annual report on the work of the Institution Annual Information on the implementation of the Action Plan of the Strategy for integration of persons with disabilities in Montenegro
3.3.32	Introducing the services of the Day Care Centre for adults with intellectual disabilities in the local community in accordance with the measures of the Plan for the transformation	Ministry of Labour and Social Welfare, PI “Komanski most”, local government, NGOs dealing with persons with disabilities	QI 2016 and beyond (depending on the capacity of local governments and NGOs to develop support services)	Regular budgetary funds EUR 15,000	Adult persons are using the services of a Day Care Centre for adults with intellectual disabilities in local communities.	Annual reports on the work of the Institutions. Annual Information on the implementation of the Action Plan of the Strategy for integration of persons with disabilities in Montenegro

3.3.33	Developing other services of support to persons with intellectual disabilities (such as supported housing, protection workshops) in local communities for the purpose of prevention of institutionalization and enhancement of capacities of the persons with intellectual disabilities for the integration into the community	Ministry of Labour and Social Welfare, local government s, centres for social work, NGOs dealing with persons with disabilities	Fourth quarter of 2013 and beyond (depending on the capacity of local governments and NGOs to develop support services)	Funds from the distribution of a part of revenue from the games of chance for co-financing plans and programs aimed at satisfying needs of persons with disabilities EUR 900,000 /funds raised by NGOs and public institutions through other programs and projects/funds from international organizations: UNICEF, UNDP etc.	Annual Information on the implementation of the Plan for transformation relating to other services of support to persons with intellectual disabilities. Annual Information on the implementation of the Action Plan of the Strategy for integration of persons with disabilities in Montenegro	Increased number of newly opened support services in the community  Increased number of persons with intellectual disabilities using the services of support in their respective local communities
<b>Special hospital of DOBROTA</b>						
3.3.34	Improving living conditions of patients in the Special Hospital of Dobrota by improving accommodation, technical and hygiene conditions	Special Hospital Dobrota, MH	December 2013 - December 2014	Regular budgetary funds EUR 31,000, additional donor funding required EUR	Electrical generating unit provided, bathrooms renovated, room for visits adapted, created	Annual Ombudsman's Report on the Human Rights in the Special Hospital of Dobrota

				5,000	conditions for patient privacy	
3.3.35	Opening a Day Hospital as a new organizational unit in the Special Hospital of Dobrota	Special Hospital Dobrota, MH	January 2014	Required additional budgetary funds – employee wages, EUR 48,000	Day Hospital as a new organizational unit in the Special Hospital of Dobrota - formed	
3.3.36	Forming the National Centre for Mental Health in the Special Hospital of Dobrota aimed at the realization of the continuous medical education in the area of mental health and future international cooperation in this area	Special Hospital Dobrota, MH	December 2014	EU funding provided / Twinning light project EUR 15,000	National Centre for Mental Health in the Special Hospital of Dobrota formed	
3.3.37	Implementing campaigns for health workers in order to make the work with psychiatric patients more attractive	MH, Special Hospital Dobrota, Department of Psychiatry, Clinical Centre of Montenegro, Nikšić Psychiatric Unit, mental health centres	June - December 2013 January - December 2014	Budget Required additional donor funding EUR 5,000	Number of TV shows, published brochures, Continuation of the regular bonus on the monthly salary of all the employees in the Special Hospital of Dobrota in the amount of 15% due to the difficulty and conditions of work	Increased number of health professionals engaged in the Special Hospital Dobrota

**3.4. Recommendation: Ensure protection of journalists against threats and violence, in particular through effective investigations and deterrent sanction of past attacks. Review and amend the legislative and institutional framework for the protection of media freedom.**

**CURRENT SITUATION**

Further to the recommendations, activities have been implemented in the field of freedom of expression that have contributed, to a significant extent, to creating a more favourable environment for the exercise of this right.

Amendments to the Criminal Code of July 2011 decriminalized libel and insult. Redress for these offenses is now pursued exclusively through civil proceedings.

On 29 March 2011, the General Session of the Supreme Court of Montenegro adopted the following legal position: "If legal grounds have been found for liability of journalists and media, the court shall weight the amount of rightful compensation for violation of personal rights (reputation, honour, etc.) taking into account all the circumstances of the case in question, and especially: the significance of the breach and the consequences arising thereof, duration of emotional pains and that the compensation should, as a rule, be in line with the case law of the European Court of Human Rights, in a way that the amount of compensation awarded is not such as to discourage journalists and media from performing their role in protecting democratic values of the society."

The Constitution guarantees the freedom of the press and other forms of publication, whereas censorship is prohibited. If the interests of preserving the territorial integrity of Montenegro so require, the competent court may prevent dissemination of information and ideas through the means of public information. This provision must not lead to "undue restriction of freedom of expression", as it applies only to exceptional circumstances and is not obligatory, but it is left to the court to decide whether or not it will prevent the dissemination of information and ideas. Through this provision, the Constitution provides a balance between fundamental rights and freedoms, on the one hand, and protects the territorial integrity as one of the basic prerogatives of the state, on the other.

All criminal cases of libel and insult that were initiated before the decriminalization of libel and insult have been concluded with final and enforceable judgments. Regarding statistical data related to cases of violence against journalists which are underway with the Montenegrin courts, there were total of 6 cases of violence against journalists against 8 persons. Criminal proceedings have been completed in 4 cases against 4 persons. 4 convictions were brought. Before the Montenegrin courts first instance proceedings were underway in 3 cases against 5 persons, including 2 cases from 2012 (see the data for 2012) and one case against 1 person from 2013.

Regarding statistical data related to litigations in which media were sued, in 2009 there were in total of 17 cases of compensations for non-pecuniary damage with Montenegrin courts. 17 cases have been resolved, in 3 cases the complaint was approved and compensation in the amount of EUR 3,000 (in two cases) and EUR 4,000 were awarded. In 8 cases the complaint was rejected as unfounded, while in 6 cases the complaint was withdrawn. In 2010 there were in total of 11 cases of compensations for non-pecuniary damage where the media were sued. 11 cases have been resolved, in 5 cases the complaint was approved and compensations in the amount of EUR 1500, 2500, 3000, 3500 and 4000 were approved. In 4 cases the complaint was rejected as unfounded, while in 2 cases the complaint was withdrawn. Court decisions are final and binding in 9 cases. In 2011, a total of 19 cases of compensation for non-pecuniary damage were underway in which the media were sued. 15 cases have been resolved, in 1 case the complaint was rejected as unfounded, while in 14 cases the complaint was withdrawn. Court decisions are final in 11 cases. In 2012 a total of 15 cases of compensation for non-pecuniary damage were underway in which the media were sued. 6 cases have been resolved, while in 9 cases the litigation is in progress. Out of the 6 resolved cases, in 3 cases the complaint was rejected as unfounded, and in 3 cases the complaint was withdrawn. Court decisions are final in 4 cases. By May 2013, there were 11 cases of compensation for non-pecuniary damage underway in which the media were sued, out of which 9 cases are from 2012 and 2 cases from 2013. In all 11 cases the first instance proceedings are underway.

According to recommendations 12 and 13 of the National Commission for implementation of the Strategy for the fight against corruption and organized crime, authorized officers of the Police Administration in continuity take planned measures and actions in order to clarify attacks on the media representatives and attempts of their intimidation, and in order to track down perpetrators and ordering parties and prosecute them to the competent state prosecutor. In accordance with statutory powers and obligations concerning protection of safety of citizens and property, the Police Administration will perform risk assessment analysis in the future, which applies to employees in the public service, and accordingly direct their work and take appropriate measures and actions to prevent such violations and intensify work on unclarified cases of attacks on members of the journalistic profession. From the reporting of the event, intensive measures and actions have been taken in order to identify and prosecute the perpetrators to the competent state prosecutor. By the new Law on amnesty, the persons who have been convicted with a final court decision for the offense of defamation and libel were granted amnesty after the abolition of these offenses. With a view to strengthening the freedom of the press and independence of professional journalism, media companies and media associations have established three self-regulatory bodies in the field of the media, including the following; the Media Self-Regulatory Council, which includes 19 media outlets, the Press Council, which brings together three media outlets and the Self-Regulatory Council for Local and Periodical Press which comprises 11 media outlets. This completes the institutional framework for the field of the media, because on the one hand, the Agency for Electronic Media operates as a politically, institutionally and financially independent regulatory body for the field of electronic media, while on the other, there are three self-regulatory bodies for the field of both electronic and print media, which aim to establish mechanisms for respect for ethical rules and journalistic code of conduct by the media outlets that have become their members.

With a view to preserving pluralism in the media industry in Montenegro, a three-year Program of State Aid for Broadcasters/Electronic Media was introduced in 2011, on the basis of which a schedule was decided for the takeover of the debt owed to the Agency for Electronic Communications (EKIP) and the Broadcasting Centre (RDC) in the amount of EUR 4,447,639.61. The financial commitments for 2011 and 2012 in the amount of EUR 2,148,174.81 and EUR 1,512,197.48 have been met in full. The remaining financial commitment for 2013 is in the process of being met.

In the context of meeting the technical requirements for the functioning of the Media Self-Regulatory Council, a transparent and independent three-year financing model for this self-regulatory body has been designed. In accordance with the stipulated model, the commitments for 2012 were met according to schedule.

In order to secure consistent implementation the case law of the European Court of Human Rights, the Judicial Training Centre conducted an annual training program for judges, which included the area of freedom of expression.

No.	Measure/Activity	Responsible authority	Deadline	Required funds/Source of financing	Indicator of result	Indicator of impact
3.4.1.	Amendments of the Criminal Code for the purpose of stipulating the exemption from criminal liability for criminal offences referred to in Articles 172 - 176 of the Criminal Code (in case of breach of mail and other packages, unauthorized eavesdrop and	Ministry of Justice	September 2013	Regular budgetary funds	Adopted Law on Amendments to the Criminal Code which stipulates the exemption from	Exemption from criminal liability for criminal offences referred to in Articles 172 - 176 of the Criminal Code aims to encourage investigative

	recording, unauthorized photographing, unauthorized disclosure and presentation of someone else's writings, portraits and videos, unauthorized collection of personal data) if taking actions of committing any of those offences led to the prevention or detection of a criminal offence for which the law defines the punishment of imprisonment in the duration of five or more years.				criminal liability for criminal offences referred to in Articles 172 - 176. Number of persons against whom criminal proceedings have not been initiated or who were acquitted of liability on the basis of the new provisions of the Criminal Code.	journalism and contribute to the improvement and more complete reporting of sensitive issues in the society.
3.4.2	Establish a Government Commission to monitor the actions of competent authorities in the investigation of old and recent cases of threats and violations against journalists and murders of journalists, consisting of representatives from the Ministry of Interior, prosecutor's office, police, NGOs and the media, with the aim to investigate the reasons for unsolved murders of journalists through cooperation with the competent authorities, collection and reviewing of all relevant documents.	Multidisciplinary team – Commission (Ministry of Interior, Supreme State Prosecutor's Office, NGO and media representatives)	December 2013	No funds required.	Adopted Decision on establishing a Multidisciplinary commission for investigating murders of journalists. Adopted Rules of Procedure of the Commission setting up the organization, method of work and decision-making process of the Commission. Provided space and resources for the Commission.	Commission's report on investigations.  Evaluation of the situation in the area of protection of journalist in the Annual Progress Report of Montenegro.  UN Reports (UPR)
3.4.3	Prepare and submit regularly Reports on	Police	January –	Regular	Report submitted to	Number of resolved backlog



	investigations of old and recent cases of threats and violations against journalists to the Government Commission from activity 3.4.2	Administration, SPPO	June 2014, July - December 2014 and beyond	budgetary funds (2 employees, annual level EUR 19,440)	the Government Commission. Status of cases in the procedure. Number of resolved backlog cases.	cases in relation to the total number in the previous period.
3.4.4	<p>Introducing the system of measures and actions that Police Administration undertakes with a view to protection of journalists against threats and violence</p> <p>System of preventive measures undertaken to protect journalists:</p> <ul style="list-style-type: none"> <li>- risk analysis of vulnerability of employees in the media</li> <li>- preparing an assessment of the safety of journalists and members of their families</li> <li>- security in the event of danger, police escort and protection of family members and facilities in which they live and in which they are professionally engaged</li> <li>- operational checks on the ground in relation to the persons registered as the perpetrators of attacks on journalists</li> </ul> <p>The system of repressive measures undertaken to protect journalists:</p> <ul style="list-style-type: none"> <li>- The police officers in accordance with their powers under the Criminal Procedure Code and the Law on Internal Affairs, while the investigation is led by the prosecutors in charge in cases of attacks on journalists undertaking measures and actions to clarify these acts, identify both the perpetrator and the ordering party and their</li> </ul>	Police Administration	December 2013  January – December 2014 and beyond	Regular budgetary funds	System of measures and actions was created. It is used through everyday activities of the employees of the Police Administration (system of preventive and repressive measures).	<p>Increased protection of journalists from threats and violence.</p> <p>Evaluation of the situation in the field of protection of journalists in the annual report on the progress of Montenegro UN report (UPR)</p>

	prosecution to the prosecutor in charge.					
3.4.5	Preparing a report on implementation of professional and ethical standards in Montenegrin journalism. Publishing reports on respect for the Code of journalists in media	Media Council for Self-Regulation	December 2013 December 2014	Funds from the Media Council for Self-Regulation	Report on implementation of professional and ethical standards in Montenegrin journalism - adopted Reports published on web pages of the Media Council	The number of complaints on the work of the media (submitted and processed)
3.4.6	Developing Program of training for journalists in the area of human rights with special emphasis to Article 10 of the European Convention on Human Rights – Freedom of expression with the aim to introduce the European standards in terms of reporting on the respect for human rights with special reference to the area of freedom of expression	Self-regulatory bodies, NGOs, Media, Expert support required (TAIEX)	December 2013  Implementation of training from January 2014 and beyond	International donors required ca. EUR 6,000 per seminar ca. EUR 12,000 for realization of the programme annually	Program of training for journalists developed.  Number and types of training. Number and composition of participants.	
3.4.7	Conducting trainings for judges and prosecutors in the area of freedom of expression and application of practice of the European Court of Human Rights relating to: - the amount of compensation for non-pecuniary damages to honour and reputation inflicted through media, - independent judiciary, freedom of the media and	Judicial Training Centre	From January 2014 onwards  3 seminars annually	Regular budgetary funds EUR 6,000 International donors required for	Number and type of training. Number and composition of participants.	Assessment of the success of training based on evaluation forms.

	respect for human rights, - relation between media and judiciary, - freedom of expression according to the case law of the European Court of Human Rights – with the emphasis on Article 10 of the European Convention on Human Rights			realization of the programme annually EUR 12,000 (ca. EUR 6,000 per seminar)		
3.4.8	Developing the program of training for journalists in the context of reporting on special categories of personal data and reporting on juveniles	Agency for the protection of personal data and free access to information , Self-regulatory bodies, Media, NGOs	From January 2014 and beyond  3 seminars annually	International donors required  ca. EUR 7,000 – EUR 10,000	Training program developed. Number and types of training. Number and composition of participants in the training.	Training program for journalists in the area of reporting on special categories of personal data and reporting on juveniles was implemented.
3.4.9	Preparation of manual and other training material which will contain standards „worthy of journalist’s attention“, proportional imposition of compensation for damages, protection of privacy on grounds of court case of the European Court of Human Rights in the area of freedom of expression	Ministry of Culture, Supreme Court, Self-regulatory bodies, NGOs	From January 2014 and beyond  3 seminars annually	Regular budgetary funds (Ministry of Culture) EUR 5,000 International donors required for	Material published and distributed to all courts and media in Montenegro.	

				Supreme Court) ca. EUR 5,000		
<b>3.5. Recommendation: Ensure the independence of the audio-visual regulator and of the public broadcaster.</b>						
<b>CURRENT SITUATION</b>						
<p>The Law on Public Broadcasting Services of Montenegro guarantees the election and independent work of members of the Council of the Public Service Broadcaster RTCG in accordance with Recommendation No. R (96) 10 on the guarantee of the independence of public service broadcasting. The provision in question was reviewed favourably by experts who participated in the drafting of the law (OSCE and Article 19).</p> <p>The Law on Public Broadcasting Services of Montenegro regulates the activity of the public broadcasting service, Radio of Montenegro and Television of Montenegro. This Law is aligned with Recommendation No. R (96) 10 of the Committee of Ministers to Member States on guaranteeing the independence of public broadcasting services and other international instruments in this field. It guarantees the political, institutional and financial independence of the public radio broadcasting service RTCG.</p> <p>Electronic Media Law regulates the rights, duties and responsibilities of legal and natural persons engaged in the production and provision of audio-visual media services (hereinafter: AVM services), services of electronic publications via electronic communications networks; jurisdiction, status and sources of funding for the Agency for Electronic Media as an independent regulator for the field of electronic media, preventing unauthorized media concentration, encouraging media pluralism and other issues of importance for the field of providing AVM services, in accordance with international conventions and standards. This Law, to the maximum extent possible, is aligned with the Audio-visual Media Services Directive (Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010).</p> <p>Independence issue of audio-visual regulator and public broadcaster will be elaborated in detail within Chapter 10 - Information Society and Media.</p>						
No.	Measure/Activity	Responsible authority	Deadline	Required funds/Source of financing	Indicator of result	Indicator of impact
3.5.1.	Prepare Amendments to the Law on Electronic Media in order to achieve full harmonization with the Audio-visual Media Services Directive of 2010	Ministry of Culture in cooperation with the Agency for Electronic Media	Fourth quarter of 2015	Regular budgetary funds (EUR 4,050 -five staff, a month of effective work; EUR 3,810 - public debate; EUR	Adopted Law Amending the Law on Electronic Media	Report on the implementation of the Law prepared one year after the adoption of the Law

				15,000 work of parliamentary committees)		
3.5.2	Monitor implementation of the Montenegrin Public Broadcaster Strategy 2011-2015 <a href="http://www.rtcg.me/sw4i/download/files/article/Strategija_RTCG_2011-2015_1.pdf?id=93">http://www.rtcg.me/sw4i/download/files/article/Strategija_RTCG_2011-2015_1.pdf?id=93</a>	Radio Television of Montenegro	From June 2013 to fourth quarter of 2015, twice a year	Budget of the Radio Television of Montenegro	Report on implementation of the Montenegrin Public Broadcaster Strategy 2011-2015	

**3.6.1. Recommendation: Take concrete steps to ensure practical implementation of non-discrimination, including through strengthening of the monitoring bodies and more effective reactions of the law enforcement bodies to possible violations.**

**CURRENT SITUATION**

Legal framework of national legislation which needs to provide legal protection of full and equal enjoyment of all human rights and freedoms, has been defined in the first Articles of the Constitution, more precisely, Article 6, which provides for general guarantee of the protection of human rights and freedoms as inviolable categories; Article 7, providing for prohibition of incitement to hatred or intolerance on any ground; and Article 8 providing for prohibition of discrimination, as a general prerequisite for the enjoyment of all human rights and freedoms.

Given the existing, general legal framework, the Ministry of Human and Minority Rights has undertaken legislative activities to adopt special laws defining the field of protection from all forms of discrimination; these are primarily the Law on Prohibition of Discrimination and the Law on Protector of Human Rights and Freedoms.

Following the adoption of these Laws, the Ministry of Human and Minority Rights, in cooperation with the OSCE Mission to Montenegro, has adopted the Plan for Implementation of anti-discrimination legislation, which has included the following: the Plan of Education in the field of protection from discrimination, and the Plan of Promotion of anti-discriminatory behaviour and practice, within which special seminars, workshops, TV spots, newspaper advertisements, posters, flyers and other propaganda material have been designed for LGBT population.

Education and promotion of anti-discriminatory behaviour have been marked as continuous activities of the Ministry since the adoption of the Law on Prohibition of Discrimination, with a view to providing the necessary skills to as many persons as possible who are indirectly and/or directly involved in the provision of protection from discrimination.

Plan of Education has so far included the activities related to the implementation of a highly complex training in the field of anti-discrimination, aimed at raising awareness, sensitivity and, primarily, provision of skills necessary to provide protection from discrimination for the representatives of state administration, police, judiciary, non-governmental and other independent institutions, as well as representatives of local self-government, and all regional police units and stations in Montenegro.

Plan of promotion has included a media campaign on anti-discriminatory behaviour designed to create more humane and tolerant environment, as well as to introduce the most general public to their rights guaranteed by the Law; its first stage targeted the most vulnerable social groups. A visual identity of the media campaign has been developed; as mentioned, the campaign was tailored according to the most frequent grounds for discrimination: disability, gender identity, and sexual orientation. Conducted throughout 2011, the campaign included TV spots, (broadcast of 1045 spots or 62 700 seconds), newspaper advertisements, insertions of flyers (leaflets) in the total circulation of all three daily newspapers in Montenegro (204 000 flyers) and a considerable number of billboards (64 in total), in the entire territory of Montenegro. A total of 204 000 flyers, printed and inserted in the entire circulation of each daily newspaper in Montenegro, were containing anti-discrimination messages and excerpts from laws providing for prohibition of and protection from discrimination. All these activities have been conducted in order to achieve an effective and good-quality implementation of the legal regulations, and increase the level of tolerance and sensitivity of both professional and general public.

No.	Measure/Activity	Responsible authority	Deadline	Required funds/Source of financing	Indicator of result	Indicator of impact
3.6.1.1	<p>Adopt Amendments to the Law on Prohibition of Discrimination and the Law on Protector of Human Rights and Freedoms of Montenegro, according to the EC and CoE recommendations (amendments will apply to the definition of election and re-election of the Ombudsman, responsibility, immunity and the way of removal) (By amendments to the Law compliance with EU standards was accomplished, namely: promotion of equality, in accordance with the Consolidated Version of the Treaty on European Union 2012/C 326/01, the concept of direct and indirect discrimination, Council Directive 2000/43/EC, 2000/78/EC, 2004/113/EC, 2006/54/EC – Race Directive, ECRI's General Policy Recommendation No.7, special forms of discrimination in accordance with Council Directive 2004/113/EC</p>	MHMR, Ombudsman	December 2013	<p>Budget EUR 54,410 (two working groups consisting of 5 members, 2 months effective work - EUR 8,900 - draft law; EUR 3,810 - Public debate; EUR 15,000 – work of parliamentary committees);</p>	<p>Adopted Amendments to the Law on Prohibition of Discrimination and the Law on Protector of Human Rights and Freedoms  A report on the application of the law one year after adoption prepared. - Number of registered cases of discrimination in ordinary</p>	<p>The reports of the Council of Europe and UN and Progress Report for 2013 noted the degree of compliance with these standards and directives</p>

					courts, state prosecutor's offices, authorities for misdemeanour, authorities responsible for police affairs and inspection authorities	
3.6.1.2	<p>Implementation of education regarding the anti-discriminatory behaviour through continuous implementation of seminars/workshops and trainings in accordance with the defined Plan of implementation of anti-discriminatory legislation on an annual basis.</p> <p>Training courses include:</p> <p>Term and nature of discrimination</p> <p>General legal regime of protection against discrimination</p> <p>Protection of the most vulnerable social groups against discrimination.</p> <p>Special forms of discrimination against persons with disabilities, LGBT population, women, HIV infected people and people infected with hepatitis C.</p> <p>All campaigns are based on the standards defined by the European Charter on Human Rights, the Council of Europe's European Convention for the Protection of Human Rights, Convention on the Rights of Persons with Disabilities, and the relevant UN</p>	MHMR, JTC, HRMA, PA	April – November 2013	MHMR Budget provided funds (EUR 3,000) foreign donors OSCE Mission to Montenegro provided funds (EUR 13,200)	Number and type of realized trainings, Total number and structure of participants who received a certificate for providing protection against discrimination	Conducted public opinion survey as a monitoring mechanism on the state of human rights shows a lower level of discrimination against the most vulnerable social groups

	conventions.					
3.6.1.3	<p>Promotion of anti-discriminatory behaviour and practices through media campaign on the rights and opportunities of marginalized social groups (TV-video clips, advertisements, flyers, billboards...) on protection against discrimination and affirmation of anti-discriminatory behaviour.</p> <p>All campaigns are based on the standards defined by the European Charter on Human Rights, the Council of Europe's European Convention for the Protection of Human Rights, Convention on the Rights of Persons with Disabilities, and the relevant UN conventions.</p>	MHMR in cooperation with NGOs	June 2013 - March 2014	MHMR Budget, EUR 20,000 Provided donor funds OSCE Mission to Montenegro, (EUR 80,000)	<p>Number of videos broadcasts, published advertisements, flyers and other propaganda material.</p> <p>Percentage of monitoring the effect of media campaign in public.</p> <p>Change of public opinion in relation to discrimination</p>	<p>Conducted public opinion survey as a monitoring mechanism on the state of human rights shows percentage of monitoring effective media campaign in public and degree of changes of public opinion in relation to discrimination</p> <p>Publication of research results in measurable categories.</p>



3.6.1.4	<p>Hire three new employees on the protection against discrimination to vacant positions prescribed in the Rulebook on internal organization and systematization of the Protector of Human Rights and Freedoms.</p> <p>Link: measures related to employment at the institution of the Protector 3.1.6 and 3.8.1.8</p>	Protector of Human Rights and Freedoms	December 2013	<p>Budget of Montenegro/the share of the Protector EUR 12,000 for a new employee in 2013 (provided funds), EUR 12,000 for a new employee in 2014 (additional funds) and EUR 10,000 for a new employee in 2015 (additional funds)</p>	<p>Increased number of employees by one employee in 2013, one employee in 2014 and one employee in 2015.</p>	
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**3.6.2. Recommendation: Take concrete steps to ensure practical implementation of gender equality in practice, including through strengthening of the monitoring bodies and more effective reactions of the law enforcement bodies to possible violations, as well as through better awareness raising and support measures, especially on employment and public representation of women.**

**CURRENT SITUATION**

The Constitution of Montenegro, the Chapter on Human Rights and Freedoms, stipulates that the State guarantees the equality of women and men and develops a policy of equal opportunities. The introduction of special measures (positive action aimed at the gradual elimination of historically conditioned inequality) will not be considered as discrimination. Guarantees provided under the highest law of Montenegro are elaborated in a series of laws that regulate labour relations, employment, pension and disability insurance, education, health care and social welfare, occupational health, family relations, criminal acts, etc. The Gender

Equality Law ("Official Gazette of the Republic of Montenegro" 46/07) was adopted in July 2007. The Law establishes the state administration body responsible for tasks related to achieving gender equality, which is the Ministry of Human and Minority Rights. The Gender Equality Law prescribes mechanisms for achieving gender equality. In order to eliminate gender discrimination and achieve gender equality, the Law establishes the obligations of state authorities, state administration bodies and local self-governments, public institutions, public companies and other legal persons that exercise public authority. The Law highlights the role of civil society and gives some significant space for nongovernmental organizations in the overall efforts to achieve gender equality.

In Montenegro, until now, two institutional mechanisms for achieving gender equality have been established. The Committee for Gender Equality of the Parliament of the Republic of Montenegro was established on 11 July 2001. The Government of Montenegro established the Office for Gender Equality at the meeting held on 27 March 2003. The office operates as the Department of Gender Equality of the Ministry for Human and Minority Rights. The Protector of Human Rights and Freedoms (Ombudsman) is an independent and autonomous institution and a mechanism to fight discrimination, and therefore an important mechanism to combat discrimination based on sex. Pursuant to the Law on Gender Equality, ministries and administrative bodies appointed their employees to act as coordinators of the activities related to issues of gender equality within their jurisdiction, and participate in the preparation and implementation of the Action Plan. Also, with 14 municipalities in Montenegro cooperation was established in implementation of gender equality policies at local level, and offices for gender equality were established in the three municipalities (Cetinje, Pljevlja and Bijelo Polje).

The Plan of Action on Gender Equality, as a basic document for achieving gender equality, was adopted in January 2013, including an implementation plan for the period 2013-2014. The Plan identified the following areas of work: Improving human rights and gender equality of women; gender-sensitive care and education; gender equality in the economy; gender-sensitive health care; gender-based violence; media and culture; equality in decision-making processes in political and public life; International policy and cooperation; and institutional mechanisms for the implementation of gender equality.

The Law on Protection from Domestic Violence, the first specialized law that regulates the area of domestic violence (Official Gazette of Montenegro 46/10), entered into force in August 2010. This Law defines domestic violence as "any act or omission to act of a family member that endangers the physical, psychological, sexual or economic integrity, sanity and serenity of another family member, regardless of the place where it is committed" (Article 2). The Law regulates the protection of victims in misdemeanour proceedings and provides five types of protective measures as sanctions (Article 20 and Article 26): removal from the apartment, restraining order to protect the victim, prohibition of harassment and stalking, mandatory treatment of addiction and mandatory psychosocial treatment. The principle of urgency is also anticipated in proceedings relating to the protection from violence. The Strategy for Protection against Domestic Violence was adopted in 2011, while the Protocol on handling cases of domestic violence between the relevant institutions was signed the same year. In the area of protection against domestic violence and violence against women, it is necessary to work on the strengthening of inter-sectorial cooperation for all the victims of violence to receive the necessary support and assistance.

In order to increase the participation of women in political life, a clause was introduced in the Law on Amendments to the Law on Election of Councillors and Members of Parliament (2011), urging all political parties to commit to include in electoral lists at least 30% of candidates of the less represented gender. The Parliament of Montenegro, under the Constitution, has 81 representatives of the people. The current composition of 81 MPs includes 14 women or 17.2%, which is an increase compared to the previous convocation of the Parliament that included 13.5% women. The President and Vice Presidents of the Parliament are men. In the Government of Montenegro, three ministries are headed by women, the Ministry of Science, Ministry of Defence and the Minister without Portfolio. Women are significantly represented in deputy positions, i.e. as Assistant Ministers and Deputy Directors, 40.3% and 44.8% respectively. In Montenegro there are 21 municipalities. There is only one female Mayor, and two Presidents of the Municipal Parliaments are women. 14% of councillors are women. In this area it

is necessary to continue to work on increasing the participation of women in decision-making positions, in order to reach the international standard of 30%.

No.	Measure/Activity	Responsible authority	Deadline	Required funds/Source of financing	Indicator of result	Indicator of impact
3.6.2.1	Strengthen the capacity of the Department for gender equality in order to better coordinate, implement and monitor the implementation of gender equality policy at the national level	MHMR	March 2014 (one officer)  Second quarter of 2017 (one officer)	Additional funding required for one employee Note: in 2013 the annual budget costs for one employee amounted to EUR 9,720	The number of employees increased by two officers	Annual work report of the Department showing degree of increase of activities of the Department compared to the previous period
3.6.2.2	Continue cooperation and support with municipalities in order to more efficiently implement gender equality policies at the local level	MHMR, municipalities	June – December 2013, Second and third quarter of 2014, Second and third quarter of 2015, Second and third quarter of 2016	Budget and donor funding Project in partnership with the OSCE "Strengthening mechanisms for gender equality at the local level" EUR 10,000 per year	Number of established local offices/councils for gender equality, number of adopted local action plans	Reports on implemented activities
3.6.2.3	Implementation of training programs and mentoring for women who are starting a private business in four pilot municipalities in order to strengthen	MHMR, four pilot municipalities	June - December 2013	Provided funding IPA 2010 Gender Program EUR 30,000	Number of registered women entrepreneurs in four pilot	Reports on implemented activities

	gender equality at local level				municipalities	
3.6.2.4	Encourage diversification of rural economies through establishment of women's business in the field of traditional crafts, souvenirs, handicrafts, etc.) in four pilot municipalities in order to strengthen gender equality in rural areas	MHMR, four pilot municipalities	June - December 2013	Provided funding IPA 2010 Gender Program EUR 30,000	Number of registered women entrepreneurs in four pilot municipalities dealing with traditional crafts, souvenirs and handicrafts	Reports on implemented activities
3.6.2.5	Strengthen cooperation with women's NGOs in the implementation and monitoring of the implementation of international and national standards for gender equality	MHMR in cooperation with NGOs	June - December 2013 Second quarter of 2014, Second quarter of 2015, Second quarter of 2016	Budget and additional funds from donations necessary EUR 20,000 per year	Number of joint activities implemented	Reports on implemented activities Reports of NGOs
3.6.2.6	Implement the education programs for teachers in education institutions from kindergartens to secondary schools in order to eliminate gender stereotypes	MHMR, Ministry of Education	June 2013 June 2014 Second quarter of 2015, Second quarter of 2016	Budget and necessary funds from donations Preparation of seminar the work of one employee 5 days effectively EUR 400 and organization of one seminar per year EUR 3,000	Number and type of trainings, number and structure of participants	Raised awareness of employees in education on gender equality Improved assessment of the situation in the field of gender equality in the Annual progress report of Montenegro, Reports of the UN (UPR) Reports of the CEDAW Committee

3.6.2.7	Implementation of education of judges and prosecutors, as well as attorneys on gender equality, with the special emphasis on CEDAW Convention	MHMR Judicial training Centre	Third quarter of 2014, Third quarter of 2015, Third quarter of 2016	Budget and necessary funds from donations necessary Preparation of seminar the work of one employee 5 days effectively EUR 400 and organization of one seminar per year EUR 3,000	Number and type of training, number and structure of participants	Strengthened capacities of judges and prosecutors, as well as attorneys for implementation of gender equality in practice; Reports of the CEDAW Committee; Annual Montenegro Progress Report, UN (UPR) and Council of Europe reports.
3.6.2.8	Implementation of education of journalists in media organizations on gender equality	MHMR in cooperation with NGOs and media	September 2013, December 2014, Fourth quarter of 2015, Fourth quarter of 2016	Budget and necessary funds from donations necessary Preparation of seminar the work of one staff 5 days effectively EUR 400 and organization of one seminar per year EUR 3,000	Number and type of training, number and structure of participants	Number of newspaper articles and features that promote gender equality.
3.6.2.9	Implement raising awareness campaigns on international and domestic instruments for protection of human rights of women	MHMR in cooperation with NGOs and media	March 2014, First quarter of 2015, First quarter of 2016	Additional funds necessary preparation of campaign EUR 4,450 (5 persons, effective work for one month) Implementation of	Number of media performances, number of media reports	Reports of the CEDAW Committee. UN (UPR) and Council of Europe reports.

				the campaign EUR 8,000 per year		
3.6.2.10	Collect data on cases of discrimination on grounds of gender and their outputs and make them available to public	MHMR, Ombudsman, Ministry of Interior	June 2014, Second quarter of 2015, Second quarter of 2016	One person, effective work for 10 days EUR 800 per year	Number of reported and solved cases of discrimination on grounds of gender	Annual reports of the Ombudsman and NGOs
3.6.2.11	Organization of training for political parties on international standards and comparative models of inclusion of women in public and political life	Parliamentary Committee for Gender equality in cooperation with the MHMR and NGOs	May - June 2013, May - June 2014	Funds from donations UNDP and OSCE EUR 10,000 per year	Number and type of training at national and local level. Number and structure of participants.	Percentage of women in senior positions in public and political life
3.6.2.12	Organization of raising awareness campaigns on necessity of greater inclusion of women in public and political life	Parliamentary Committee for Gender equality in cooperation with the MHMR, municipalities and NGOs and media	October 2013, October 2014, Third quarter of 2015, Third quarter of 2016	Budget and funds from donations UNDP EUR 10,000 per year	Number of media performances. Number of thematic meetings at national and local level. Number of media reports.	Percentage of women in senior positions in public and political life
3.6.2.13	Conduct evaluation of implementation of the 2011-2015 Strategy for protection against domestic violence	MLSW MHMR in	February 2014, First quarter	Budget EUR 4,450 (working group consisting of five	Reports on implementation of the Strategy	Degree of implementation of the Strategy

		cooperation with NGOs	of 2015, First quarter of 2016	members, 1 month of effective work)	adopted by the Government	
3.6.2.14	Elaborate the analysis of the state of play and identify key problems in social and other protection of victims of domestic violence and estimate capacities required for effective support to victims of domestic violence	MLSW	March 2014	Additional funds from donations necessary engagement of experts EUR 3,000	Analysis prepared with recommendations	Established structure and number of necessary personnel, determined optimum capacities to accommodate victims of domestic violence
3.6.2.15	Regular monitoring of work of multidisciplinary teams for protection against domestic violence at local level	MLSW MI PA MHMR Judiciary Misdemeanour Council in cooperation with NGOs	February 2014, First quarter of 2015, First quarter of 2016	Additional funds from donations necessary engagement of experts EUR 3,000	Annual performance evaluation of teams	Number and type of support provided of teams at local level
3.6.2.16	Establish free and single SOS line for reports of domestic violence with 24 hour duty	MHMR MLSW MI PA in cooperation with NGOs	by September 2014 the line established	IPA Gender Program 2010 UNDP Additional budgetary funds and funds from donations necessary for functioning of the line EUR 60,000	Single and free SOS line established	Number of users, types of services provided
3.6.2.17	Develop the single database on domestic violence (by gender, age, type of violence, number of submitted	MLSW in cooperation with MHMR	by September 2014	IPA Gender Program 2010 UNDP	Single database established Reports with	Number of reported and solved cases of domestic violence

	complaints, number of raised indictments, number of adjudications and imposed protection measures)	MI PA MH Judiciary Misdemeanour Council NGO		EUR 5,000	statistical data published on the website of the Ministry	
3.6.2.18	Implement research on violence against women and domestic violence and include data of state institutions	MHMR MLSW MI PA MH Judiciary Misdemeanour Council NGO	November 2013, December 2014	IPA Gender Program 2010 UNDP Additional funds from donations necessary EUR 6,000 per year	Number of research, made recommendations	Number of reported cases of violence, Citizens' perception of this problem
3.6.2.19	Campaigning 16 Days of Activism of fight against women and domestic violence	MHMR Parliamentary Committee for Gender equality Ombudsman in cooperation with NGOs and international organizations	November-December 2013 and 2014, Fourth quarter of 2015, Fourth quarter of 2016	IPA Gender Program 2010 UNDP, OSCE preparation of campaign EUR 4,450 (5 members, effective work for one month) implementation of the campaign EUR 6,000 per year	Campaigns conducted Media performances Press clipping	Number of reported cases of violence against women and domestic violence Developed citizens' awareness of this problem
3.6.2.20	Prepare, print and ensure the availability	MLJMP	November	Additional funds	Number and type of	Number of reported cases



	to broader public of education material on domestic violence, with addresses of institutions, organizations and other facilities that victims of violence may refer to for assistance, support and protection	MRSS in cooperation with NGOs	2014	from donations necessary EUR 3,000 per year	promotional material Public promotion	of violence against women and domestic violence Developed citizens' awareness of this problem
3.6.2.21	Implementation of education of members of multidisciplinary teams in order to implement more efficiently the Law on Protection against Domestic Violence and Protocol of action	MHMR MRSS in cooperation with NGOs	June 2014, Second quarter of 2015, Second quarter of 2016	IPA 2010 Gender Program UNDP, EUR 20,000 per year Budget - preparation of seminar work of one employee for 5 working days effectively EUR 400 and organization of one seminar per year EUR 3,000	Number and type of training Number and structure of participants	Number of reported cases of violence Number of solved cases of violence
3.6.2.22	Elaborate and implement the training plan for judges and prosecutors on domestic violence	MHMRP Judicial Training Centre in cooperation with NGOs	May 2013, June 2014, Second quarter of 2015, Second quarter of 2016	IPA 2010 Gender Program UNDP, EUR 20,000 per year Budget - preparation of seminar work of one employee for 5 working days effectively EUR 400 and	Number and type of training Number and structure of participants	Number of reported cases of violence Number of solved cases of violence

				organization of one seminar per year EUR 3,000		
3.6.2.23	Elaborate and implement the training program for teachers of civic education on domestic violence	MHMR MJ Education Office NGOs	November 2013, First and second quarter of 2014	IPA Gender Program 2010 EUR 20,000 per year	100 civic education teachers trained	Number of reported cases of violence Number of solved cases of violence

### 3.6.3. Recommendation: Particular focus should be put on ending discrimination of the LGBT community.

#### CURRENT SITUATION

The affirmation of the values protected by international legal standards, in particular human rights and freedoms and the fight against discrimination, including on grounds of sexual orientation and gender identity, are priority objectives. So far, the Government of Montenegro has developed a whole set of policies for the promotion and protection of the rights and freedoms of LGBT persons, and clear guidelines to combat discrimination and increase the visibility of LGBT persons in the society. It is a serious social process, whose results cannot be achieved through ad hoc activities or overnight.

This process is ongoing and the current situation is described through the following actions:

- Action of the Council for Protection from Discrimination of the Government of Montenegro, headed by the Prime Minister, whose work is participated by line ministers, Advisor to the Prime Minister and civil society representatives. The Council highlights the crucial role that we have taken to combat all forms of discrimination and the promotion of anti-discrimination policy in Montenegro.
- Montenegro is the first beneficiary country of the Council of Europe LGBT Project, whose implementation started in September 2011 and will last until December 2013. The project includes support to the countries in preparation of measures and implementation of actions to combat discrimination on the basis of sexual orientation or gender identity, in order to implement Recommendation CM/Rec(2010)5.
- The Government of Montenegro is continuously working on the training of judges, prosecutors, police officers, human rights defenders and civil servants, provides support and promotes dialogue and a wide range of consultations with civil society, and works to raise awareness among the general population in relation to LGBT issues. In the region and beyond, Montenegro is now recognized by the initiatives and training models that are developed for members of judicial authorities, prosecutors, police and civil servants, and human rights defenders, in order to improve their knowledge and sensitivity regarding the protection of and respect for LGBT rights. We are also recognized for discussions about the need for open expression of the LGBT community, including the Government's support for greater visibility of LGBT population in society.
- The Government of Montenegro most strongly condemned the burning of the flag, which symbolizes LGBT rights.
- The Council for Protection against Discrimination strongly condemned hate speech and attacks on LGBT people.
- The Working Group established by the Council for Protection against Discrimination at the meeting on 7 November 2012 completed the final Draft Strategy for Improving the Status of LGBT People from 2013 to 2018. The consultation process on the Strategy development, including an active role and contribution of the civil society and the LGBT community, lasted for 16 months. The Government of Montenegro adopted the Strategy and

accompanying Action Plan at its session of 9 May (<http://www.minmanj.gov.me/biblioteka/strategije>). The Strategy will confirm the direct support of the process, in order to provide encouragement and support the desired cultural and social changes, initiatives such as public campaigns on the harmfulness of homophobia, training officials in the responsible authorities on protecting the rights of LGBT people, especially in the police and prosecution, as well as ongoing cooperation with the LGBT community. The Strategy includes an Action Plan for 2013.

- The line Ministry of Human and Minority Rights formed the teams working on the harmonization of national legislation and the recommendations of the European Commission in relation to the Law on the Protector of Human Rights of Montenegro and the Law on Prohibition of Discrimination.
- By amendments to the Criminal Code it is envisaged that, as an aggravating circumstance for punishment measurement, the fact that the offense was committed out of hatred because of race, religion, national or ethnic origin, gender, sexual orientation or gender identity of another person will be appraised (link measure 3.11.1).

Finally, respect for human rights and freedoms depend not only on the basic, high-quality legal and institutional framework, but as equally important on the established education, mindset, and culture, a minimum of economic prosperity and overall achievements of society. Equality before the law and equality of all citizens, regardless of their sexual orientation and gender identity needs to be understood in Montenegrin society. Through defining the LGBT policy, the Government confirms the commitment of Montenegro to be based on the principles of liberty, democracy, rule of law and respect for human rights and fundamental freedoms. Such basic social values further affirm the European policy of the country and its commitment to the principles underlying the European Union.

Bearing in mind the importance of this area, some measures to improve the policy against discrimination based on sexual orientation and gender identity are designed in the Action Plan under the chapter related to the anti-discrimination policy (Law on Amendments to the Law on the Protector of Human Rights and Freedoms of Montenegro, the Law on Amendments to the Criminal Code).

No.	Measure/Activity	Responsible authority	Deadline	Required funds/Source of financing	Indicator of result	Indicator of impact
3.6.3.1	Adopt the Law on Amendments to the Law on Anti-Discrimination to promote equality and combat discrimination, transphobia and homophobia  Note: the same measure is envisaged in 3.6.1.1	Ministry of Human and Minority Rights	December 2013	Regular budgetary funds EUR 23,260	The Law on Amendments to the Law on Anti-Discrimination adopted	Report on the application of the Law one year after adoption Report of international and non-governmental organizations responsible for monitoring LGBT rights Report on the progress of Montenegro
3.6.3.2	Strengthen capacity and promote anti-	MHMR	April –	Regular	Number and type of	Target groups trained

	discrimination behaviour through continuous implementation of seminars / workshops and training according to the established plan for implementation of anti-discriminatory legislation.  Note: the same measure is envisaged in 3.6.1.2	JTC HRA	December 2013	budgetary funds EUR 3,000; Foreign donators OSCE mission to Montenegro Provided funds (EUR 13,200)	training realized Total number and structure of participants who received the certificate for provision protection from discrimination	
3.6.3.3	Prepare an analysis of standards for three different models of the Law on Registered Partnership as a prerequisite for defining the political conditions in selecting the model that best suits the Montenegrin conditions through a special project	The Council for Protection against Discrimination MHMR	September 2013 - December 2014	Regular budgetary funds EUR 5,000-6,000 (in 2014)	The analysis of standards for three different models of the Law on Registered Partnership prepared; Recommendations for the selection of the model that best suits the Montenegrin conditions defined.	
3.6.3.4	Publish material on the judgments of the European Court of Human Rights in relation to LGBT issues and place the material published on the web site of the responsible authority	The Council for Protection against Discrimination	June 2013 - December 2013	Funds provided by IRZ Foundation; Total funding for implementation of measures 3.6.3.4 and 3.6.3.5 EUR 28,800	Material on the judgments of the European Court of Human Rights published	
3.6.3.5	Organize a regional symposium of lawyers, attorneys, members of prosecutorial and judicial authorities, to discuss the issue in the context of judgments of the European Court of Human Rights, and make the	The Council for Protection against Discrimination	June 2013 - December 2013	Funds provided by IRZ Foundation; Total funding for	The regional symposium organized; Material on the judgments of the European Court of Human Rights published	

	published material visible.	n Ministry of Human and Minority Rights		implementatio n of measures 3.6.3.4 and 3.6.3.5 EUR 28,800	and placed on the web site of the responsible authority	
3.6.3.6	Provide access to the HELP program of the Council of Europe ( <a href="http://www.coe.int/help">www.coe.int/help</a> )	Judicial Training Centre	June 2013 - December 2013	LGBT Project of the Council of Europe (office in Strasbourg)	Access to the HELP program provided	
3.6.3.7	Organize school campaigns on non-violence and non-discrimination on all levels, including social networks – The Council of Europe campaign "The Fight against Hate Speech on the Internet"	Ministry of Education NGO	Ongoing, until March 2014	Regular budgetary funds EUR 2,000	Number of schools that have implemented the campaign on non-violence and non-discrimination, at all levels, in accordance with the goals of the Council of Europe campaign	Reduced level of violence and discrimination in schools
3.6.3.8	Prepare and publish an analysis of the situation and recommendations regarding policy documents, curricula and textbooks in the context of the representation of LGBT issues	Ministry of Education NGO	June 2013 – December 2013	Financial assistance of the Council of Europe provided EUR 6,000; Total funding for implementatio n of measures 3.6.3.8 and 3.6.3.9 EUR 12,000	The analysis and recommendations prepared and published on the website of responsible authorities.	Increased availability of analysis and data within the context of the representation of LGBT issues
3.6.3.9	Promote the principles and measures of the Strategy among professionals and general	Ministry of Education	June 2013 –	Financial assistance of	Number of trained teachers and	Teachers and professional services

	population: work with professional services in schools, design a manual, train teachers	NGO	December 2013	the Council of Europe provided (EUR 6,000 for training of 50 teachers, two-day seminar); Total funding for implementation of measures 3.6.3.8 and 3.6.3.9 EUR 12,000	professional services in schools; The manual designed and distributed – number of schools to which it was distributed	trained
3.6.3.10	Improve accommodation facilities of the LGBT shelter and support services	Council of Europe MHMR NGO	June 2013 – December 2013	Financial assistance of the Council of Europe provided EUR 13,000	Financial support provided	
3.6.3.11	Support the development of lesbian social network	Ministry for Information Society NGO	June 2013	Regular budgetary funds for work of 2 programmers in duration of 2 months EUR 3,240	Lesbian social network developed	
3.6.3.12	Training of social and professional workers in the Centres for Social Work and the institutions of social welfare and child care, with the aim of understanding and improving the quality of life for LGBT people	Ministry of Human and Minority Rights NGO	September 2013 - continuously	Additional funds from foreign donations necessary EUR	Social and professional workers in the Centres for Social Work and the institutions of social welfare and child care	

	in the family and community			10,000	trained	
3.6.3.13	Sign a Memorandum of Understanding on measures to combat discrimination based on sexual orientation or gender identity and promote tolerance towards LGBT people with local authorities	Ministry of Human and Minority Rights Responsible local government bodies	October 2013	No funding required	The Memorandum of Understanding signed with local authorities	
3.6.3.14	Train law enforcement officers in sensitive work with the LGBT community	PD Police Academy NGO	Until July 2013  Continue with activities, depending on provided foreign donations	Provided funds from the Embassy of the Kingdom of Netherlands EUR 35,385.00  Project Owner: LGBT Forum Progress Funds provided: EUR 2,000	Number and structure of trained police officers covered by the project; a team of trust established between the LGBT community and the police service. Examples of good practice published; an active cooperation between the LGBT community and the police service established.	
3.6.3.15	Conduct an analysis of existing records on hate crimes and discrimination. Check the national structures and procedures for investigating violations of the rights of LGBT people.	Ministry for Human and Minority Rights The Council for Protection against Discrimination NGO	June – December 2013 -	Financial help of Council of Europe provided EUR 7,500	Records of the responsible authorities analyzed. The analysis with recommendations and reviews completed and published, and further guidance presented.	

3.6.3.16	Identify and appoint contact persons to work with the LGBT community in the regional police units, taking into account the experience based on implemented training.	Police Administration	December 2013	No funding required	Contact persons to work with the LGBT community in the regional police units appointed	
3.6.3.17	Conduct training of health care workers and medical staff and improve the service to work with the LGBT community in order to understand and improve the quality of life for LGBT people	Ministry of Health Institute of Public Health Public Health Care Public health (health centres, hospitals, and Clinical Centre of Montenegro) NGO	Continuously	Regular budgetary funds EUR 7,000  Foreign donations and expert assistance needed EUR 5,000 (funds have not yet been provided)	Number and type of trainings implemented. Number and structure of trained health care workers and medical personnel and a report of NGOs monitoring the LGBT rights on the quality of health services for LGBT community	
3.6.3.18	Institutionalize the relations of health authorities with the LGBT community through the signature of cooperation agreement and the development of joint initiatives.	Ministry of Health Institute of Public Health Public Health Care Public health (health centres, hospitals, and Clinical Centre of Montenegro) NGO	November 2013	Regular budgetary funds EUR 7,000	Cooperation agreement signed and joint initiatives identified NGO report on the implementation of the objectives defined by the Agreement	



3.6.3.19	Create a database of LGBT experts and activists in order to mobilize them for consultations related to the process of decision-making	Ministry of Health NGO	December 2013	Regular budgetary funds EUR 7,000 Foreign donations EUR 3,000 (funds have not yet been provided)	Authentic LGBT representatives included in the process of consultation and decision-making with regard to all matters of interest to the LGBT community.	
3.6.3.20	In cooperation with the LGBT community, prepare and adopt the Rulebook on the admission and treatment of transgender persons in connection with the process of their gender confirmation	Ministry of Health NGO	May - October 2013	Regular budgetary funds EUR 1,000  Embassy of the United Kingdom EUR 4,000 (funds have not yet been provided)	The Rulebook on the admission and treatment of transgender persons in connection with the process of their gender confirmation adopted	

**3.7. Recommendation: Take steps to ensure full transparency of trade unions' representativeness and the right to establish new unions, in line with the relevant national regulations.**

**CURRENT SITUATION**

One of the forms of exercising the freedom of association is the formation of trade unions. Amendments to the Law on Representativeness of Trade Unions, which are planned for adoption in 2013, will promote the transparency of representativeness and the right to form new trade unions.

Proposal for the Law on Amendments to the Law on Representativeness of Trade Union, adopted by the Government on 21 June 2012, was submitted to the parliamentary procedure.

Main objectives that will be achieved by adoption of this law will be:

- making it viable for trade unions established within employers to exercise their right to representativeness in a prompt and efficient manner. Introduction of the right to complaint and decision-making by the Committee for Representativeness in the second-instance on the right to representativeness of trade union within employer will result in the possibility of those trade unions to exercise their right to representativeness more faster before the Committee, as an independent body, composed of representatives of social partners;
- faster decision-making upon the right to representativeness and consequently its exercise. Reduction of the deadline for making a decision upon exercise of the

right to representativeness at the branch and national levels from 15 days to 8 days will result in faster exercise of that right by trade unions;

- reduction of unnecessary administrative procedures. Deadlines foreseen for review of the right to representativeness are too short in the existing Law, and therefore were subject to amendments. Deadline for review of representativeness within employer was prolonged from three months to two years, whereas deadline for reviews of representativeness of trade unions at the branch level was prolonged from two to three years and at the national level from two to four years.
- protection of confidentiality of data by deleting the provision of the Law that stipulated possibility of requiring a unique citizen master numbers for employees and members of the trade union during the evidencing procedure, thus avoiding their possible misuse.

Thus, the Law will be harmonized with Article 8 of the Charter of Fundamental Rights of the European Union concerning protection of personal data. The national legislation of Montenegro is harmonised with Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms as well as with Article 5 of the European Social Charter.

Namely, Article 53 of the Constitution of Montenegro (Official Gazette of Montenegro 1/2007) guarantees the freedom of trade union and other forms of association without prior approval for registration by the competent authority. Also, this right is stipulated by Article 155 of the Labour Law (Official Gazette of Montenegro 49/2008, 59/2011 and 66/2012) as well as by Article 1 of the Law on Trade Union Representativeness (Official Gazette of Montenegro 26/2010). Trade union rights issues and trade union representativeness will be elaborated in details in Chapter 19 - Social policy and employment.

No.	Measure/Activity	Responsible authority	Deadline	Required funds/Source of financing	Indicator of result	Indicator of impact
3.7.1	Prepare the table of concordance for the Law on Trade Union Representativeness with the Charter of Fundamental Rights, with an analysis of impact of new provisions on improved exercise of trade union rights	MLSW	March 2014	Table of concordance prepared, along with the analysis, and submitted to the EC		
3.7.2	Make accessible to the public the Registry of Trade Union Organizations and Registry of Representative Trade Unions	MLSW	December 2013	Regular budgetary funds	Registries published on the Ministry's web site. Regular update.	
3.7.3	Make accessible to the public the national legislation and international standards governing the right to the formation and registration procedure of the trade unions and establishing the representativeness of the trade unions	MLSW	December 2013	Regular budgetary funds	Legislation and international standards published on the Ministry's web site. Regular update.	

**3.8.1 Recommendation: Improve the protection and enforcement of rights of the children, including by strengthening the relevant councils, and continue deinstitutionalisation where possible.**

**CURRENT SITUATION**

In a group of human rights and freedoms guaranteed by the Constitution of Montenegro, a special place is held by the rights of the child, in the sense that parents are obliged to care for their children, to educate them and send them to school, that children born out of wedlock have the same rights and obligations as children born in marriage, the children enjoy the rights and freedoms appropriate to their age and maturity, and that a child is guaranteed special protection from psychological, physical, economic, or any other abuse or exploitation, the right to health care and the right to education under equal conditions.

The United Nations Convention on the Rights of the Child, adopted in 1989, was the first binding international instrument which included a number of provisions relevant to the rights of children in conflict with the law. By ratifying the Convention in December 1990, Montenegro has an obligation to support and to include the provisions of the Convention in all laws, practices, and procedures that affect children.

In national law the rights and interests of the child shall be protected through a series of regulations issued in the criminal field, the field of family relations, social and child protection, education, health care and labour relations.

In addition to the legal framework, the issue of protection of children's rights is addressed through a series of strategic documents adopted by the Government of Montenegro.

UN Committee on the Rights of the Child, on 13 October 2010, adopted a report for Montenegro with a set of recommendations. According to the recommendations, the Law on the Treatment of Juveniles in Criminal Proceedings was adopted and the Law on Social and Child Protection is in the phase of adopting; then the activities were initiated to develop a comprehensive database of child care and a new National Plan of Action for Children (2013-2017). The necessity was recognized to increase the budget for social and child protection, health and education, empowerment of the Council for Children's Rights, strengthening the role of the Deputy Ombudsman for children's rights, the strengthening of social services for working with children and families (especially preventive), the transformation of institutions for child care and social welfare and development of family support services and services that substitute for the family, and the development of services in the local community. The initiated process of reform of the child care and social welfare system is creating conditions for continuous improvement of children's rights in Montenegro, and meeting the recommendations.

Montenegro actively participates in the Council of Europe campaign "One out of five," which aims to raise public awareness about the issue of sexual violence against children, and one of the founding countries of the Global Alliance Against Child Sexual Abuse Online, which is a joint initiative of the European Union and the United States to fight against sexual abuse of children on the internet, which should help the decision makers to identify and adequately assist victims and prosecute perpetrators of crimes in their own countries.

Law on the Treatment of Juveniles in Criminal Procedure entered into force on 6 January 2012 and its implementation started on 1 September 2012. Aimed at creation of conditions for the beginning of implementation of this Law, the Government adopted the Plan of Implementation. By-laws have been adopted as the part of the implementation plan, as well as the special program of education of judges and prosecutors and employees in the Institution for Enforcement of Criminal Sanctions, and special department for juveniles has been set up in the Institution for Enforcement of Criminal Sanctions. Currently, the administrative services in the Supreme Prosecutor's Office and in higher courts in Podgorica and Bijelo Polje are in process of foundation. In all courts, prosecutor's offices, and

the Police Administration, judges, prosecutors and police officers for treatment of minors were appointed. The Law contains specific provisions on the protection of minors as victims of crime.

The most important new provisions in the law are: the introduction of new alternative measures, warning beside educational order. The warning is applied for criminal offences which prescribe the fine or prison sentence up to three years; the application of educational order for criminal offences – prison sentence up to 10 years; set up of administrative services that will provide expert support to the courts and prosecution; new educational measures – special obligations that are similar to educational order; advancement of juvenile treatment during the enforcement of educational measures and juvenile prison and enforcement of institutional measure of sending the juvenile to the institution type of facility and juvenile prison within special organizational unit of the Institute for Enforcement of Criminal Sanctions. Special attention is paid to the use of alternative methods and alternative sanctions, which gives priority to restorative justice for juvenile offenders. Implementation of the Law on Treatment of Juveniles in Criminal Proceedings is accomplished through the IPA 2011 Project "Justice for Children".

As for the criminal protection of children, the working version of the Law on Amendments to the Criminal Code envisages further compliance with international standards in this area, aimed at protection of children.

The Draft Law on compensation of damage provides the cash compensation in the Budget of Montenegro, for the purposes of protection and assistance to the victims of criminal offences of violence committed intentionally.

Montenegro signed the Optional Protocol III on communication procedures (appeal) to the Convention on the Rights of the Child in February 2012, in Geneva. The Optional Protocol will strengthen the Convention on the Rights of the Child and its existing protocols. In this way, after more than twenty years, children are given the opportunity to access to justice at the international level, through the newly adopted appeal. The process of ratifying the Optional Protocol III is underway.

Even though in Montenegro there are 320 children placed in foster care, non-kinship foster care is not enough developed which represents significant obstacle in the process of deinstitutionalization. The Government of Montenegro has recognized this problem and adopted in 2012 the Foster Care Development Strategy 2012-2016, which lays down the foster care system development and increasing the number of foster care services.

Besides that, the new Proposal for the Law on Social and Child Protection define the obligation of all professionals working on child protection to give maximal efforts to assist the placement of children in the family through the support to the family, and if it is not possible or it is not for the best sake of children, through providing foster care. The Proposal of the new Law prescribes the child younger of three years of age to be placed in the institution only if all other choices are exhausted and are being reviewed at least once in six months.

Aimed at deinstitutionalization, the design of Operational Plan for transformation of Children's Home in Bijela is in progress. It is the only one institution of that kind in Montenegro for settling of children without parental care, and the plan is envisaged in order to decrease the number of children in the institution and provide children to go back to families, in alternative forms of protection, i.e. foster care or other service within the local community. The development of inter-sectoral Protocol for prevention of institutionalization of children with the emphasis on children younger than three years is in progress.

In order to provide better record and monitoring of achievement of rights and protection, the electronic data base of child protections was set up, which will provide monitoring of all children being settled in the system of social and child protection, including children without parental care.

Within the Centre for Juveniles "Ljubović" there is so called reception facility where children in social need, children find in stroll, children who committed criminal offences are settled. Children reside in this facility as short as possible, 30 days at the most. The juvenile foreigners are going through this facility, and

its number is constantly increasing. The following facilities for children, the six of them, have been finished during 2012 according to the recommendations of CAT:

A) Facilities for general affairs (kitchen, dining room, warehouse, workshops, janitor, sports hall, ambulance etc.)

B) Institutional treatment (measures from 6 months to 2 years of age – boys)

C) Institutional treatment (measures from 6 months to 2 years of age – girls)

D) Reception facility (short stay, 30 days at the most)

E) Shelter (stay until the criminal procedure is finished)

F) Juvenile foreigners (staying until going back to the home country)

There is no case of torture or abuse of children staying in Center Ljubovic registered by the CAT report from 2008 and report of the Agency for Human Rights in 2011.

Protection of the rights of the child concerning privacy in the media is regulated in detail by the Law on Media and Law on Electronic Media. The Law on Media defines the obligation of protection of juvenile's integrity as well as the obligation that program content of media that may endanger health, moral, intellectual, emotional and social development of a child have to be clearly and visibly marked and distributed in a way a child will not be able to see.

The Law on Electronic media, in accordance with the AVM Directive, lays down a prohibition of publishing information that reveal identity of minors, who have been involved in cases related to any form of violence, as witnesses, victims or offenders, as well as the prohibition of disclosing details concerning family relationships and private life of children. This prohibition also applies to electronic media (web pages or internet portals which contain electronic versions of press or information from the media). The issue of protection of minors in media is developed in more detail in by laws – the Rulebook on program standards in electronic media as well as Rulebook on commercial audio-visual communications.

Having regard the children with disabilities, the main challenges we are facing are still high percentage of children who are placed in institutions, lack of support services to parents and children in local communities where they live or where children can come back, as well as lack of reliable record about the number of children with disabilities in Montenegro.

In terms of development of alternative services, we are working on the foundation and development of network of daily centres for children with disabilities. So far, these centres have been set up in 6 out of 21 municipalities, and activities are in progress to establish those centres in all municipalities.

Furthermore, we are working on setting up first of that kind small group houses with 6 children at the most for the children with disabilities and without adequate parental care. In addition, the development of specialized foster care system is planned.

In order to provide better record and monitoring of achievement of rights of those children the electronic data base of social protection has been made which will provide the statistical record of all children who are on any basis in the system of social and child care, including children with disabilities.

The Protector of Human Rights and Freedoms of Montenegro (Ombudsman) was established as an autonomous and independent body to take measures for the protection of human rights and freedoms. The Law on the Protector of Human Rights and Freedoms of Montenegro ("Official Gazette of Montenegro" 42/11, and has been applied since 23 August 2011) regulates the jurisdiction, powers, method of work and actions of the Protector of Human Rights and Freedoms guaranteed by the Constitution, the law, and ratified by international treaties on human rights and generally accepted rules of international law, as well as other issues of importance to his work.

The Rulebook on the internal organization and systematization of professional services of the Protector of Human Rights and Freedoms, it is anticipated that the

Protector, within a particular field of specialization The second basic group of activities - the area of children's rights, the rights of youth and social welfare, will cover the protection of human rights and freedoms in the following areas: child rights, youth rights, social protection and related fields. For performing the activities in this area, in addition to Deputy Ombudsman, the Professional Service of the Protector includes three clerical job positions. Two of the positions are filled and no funding for the third one has been provided yet. It is expected that this job position will be filled in 2014.

According to reports of the Ombudsman<sup>15</sup>, the Government of Montenegro has taken significant measures to improve the situation of children with disabilities and children in institutions of social welfare. The degree of tolerance and openness to these children increased, which led to their greater involvement in the mainstream education system and significantly raised the level of social inclusion. Despite the measures taken, a number of children live below the poverty line and no basis conditions are provided for their proper growth and development. Particularly vulnerable are the children of Roma, Ashkali and Egyptian population, displaced persons, as well as children living in incomplete families. A certain number of children living below the poverty line are often at risk of becoming victims of various forms of abuse and exploitation (begging, prostitution, trafficking, etc). The Ombudsman's research shows that the problem of child begging in Montenegro is pronounced. Montenegrin law ensured the protection of children from abuse and neglect, but the existing measures do not provide adequate protection to victims of violence. There is still a high degree of tolerance for various forms of violence and abuse, both in the family and outside. There is a lack of institutions and developed social welfare services that provide assistance and support to children who are victims of violence. The Law on the Treatment of Juveniles in Criminal Proceedings established a juvenile justice system and created a legislative framework for the improvement of the situation of children in conflict with law and children at risk. However, for the consistent application of the Law it is necessary to conduct training of judges, prosecutors, lawyers and police officers, as well as provide a very effective work of offices and services. Generally speaking, the legislation in the field of child rights is aligned with international standards, but for its full implementation it is necessary to strengthen the capacity of institutions dealing with children's rights for the purpose of the highest possible degree of implementation of the rights of children and their better protection.

The institute of the Protector has made an important progress in the area of promotion, prevention and protection of children's rights. There was a number of educational workshops with children in 2011 and 2012, as well as regular visits to the Protector i.e. to an organisational unit that works in the area of children's rights, as well as visits of officers from the Protector's office to elementary schools and other institutions. There was an undisturbed contact with children residing in institutions, with children of elementary-school age and with all other children who may want to contact the Protector directly with reference to exercising of their rights. A separate web-page on children's rights was designed, that posts all important information on children's rights by using a tailor-made leaflets, brochures and notifications with pictures. Children contribute largely to the design of the web-page and its contents. Also, all reports made by the Protector, including the assessment of the current situation, opinion and recommendations are publicly available at the web site of the Protector i.e. at a separate page that refers to children's' rights only. The web site is a hub for all communication with the Protector for children's rights and there is a group of about 1000 friends and collaborators of the Protector who communicate among themselves or with the institution of the Protector on daily basis. The institution of the Protector has issued and published (on a separate web page on children's' rights too) a number of publications for children, such as: (i) A guide for children's rights, (ii) A guide about rights from elementary education, (iii) A guide for children with special educational needs etc. A comic about children's rights has become a part of the syllabus for children of the fourth, fifth and sixth grade. There were two promotional campaigns launched i.e. Children – contact

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<sup>15</sup> A special report on the status of human rights of the mentally ill persons placed in institutions <http://ombudsman.co.me/izvjestaji.php>

A special report on child begging in Montenegro <http://www.ombudsman.co.me/djeca/page.php?id=258>

Research in the framework of the project "Violence against children", Annual Reports for 2010 and 2011 and beyond <http://ombudsman.co.me/izvjestaji.php>

the Protector and Children – write to the Protector. Promotional materials were distributed to all elementary schools in the country. The Protector has been a member of the European Network of Ombudspersons for Children (ENOC) since 2006 and takes an active role in activities of the network. In addition, the Protector has been a member of the CRONSE since 2006; since 2012 the Protector has been presiding the CRONSE. Although an important breakthrough has been made in development of skills, knowledge and awareness of staff at judiciary concerning rights of children in conflict with the law, new changes of the Law on the Treatment of Juveniles in Criminal Proceedings impose the need for trainings of that staff in implementation of the Law. More efforts are necessary in improvement of the current programmes for rehabilitation of children in conflict with law and who have been placed at open-mode institutions or at correctional facilities as well as development of new programs. Finally, although important efforts have been made in promotion of alternatives to criminal prosecution, there is a need for further activities in order to improve implementation in practice and raise awareness of professionals in the area of juvenile prosecution about advantages of alternative measures and sanctions for juveniles in terms of promotion of their rehabilitation and re-socialisation.

No	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
3.8.1.1	Amendments to the Criminal Code in part: <ul style="list-style-type: none"> <li>- incrimination of all forms of torture and other inhumane and degrading treatment and punishment of children, with special emphasis on the children living in child and social protection institutions and children deprived of their liberty with the guarantee of submitting complaints on the treatment;</li> <li>- incrimination of children trafficking for sexual exploitation, sale of body organs for profit, forced work and illegal adoption;</li> <li>- incrimination of alluring a child with a view to performing criminal offence against sexual freedom;</li> <li>- incrimination of using the sexual</li> </ul>	Ministry of Justice, Parliament	September 2013	MJ budget for 2013 and 2014	Law amending the Criminal code has been adopted in accordance with the EU standards, as follows: Directive 92/11 and Framework Decision 2004/68/JHA of the Council, the Council of Europe Convention on the protection of children from sexual exploitation and abuse of children, the Convention on Cybercrime and the Convention CEDAW.  A greater degree of criminal protection of child rights is provided.	

	<p>services of a minor;</p> <ul style="list-style-type: none"> <li>- amendments to the offense of child pornography;</li> <li>- envisaging prosecution ex officio for criminal offence intercourse with incapable person;</li> <li>- Incrimination of concluding the forced marriages.</li> </ul>					
3.8.1.2	<p>Adoption of the new Law on Social and Child Protection that would regulate the mechanisms of professional overview over the work of institutions of social and child welfare as well as inspection surveillance and drafting secondary legislation.</p>	<p>Ministry of Labour and Social Welfare, Parliament</p>	<p>July 2013</p>	<p>Regular funds from the budget for 2013</p>	<p>Law on Social and Child Welfare adopted EC Progress Report</p>	
3.8.1.3	<p>Adopt the Law on Ratification of the Optional Protocol III on communication procedures (appeal) to the Convention on the Rights of the Child</p>	<p>Ministry of Labour and Social Welfare , Parliament</p>	<p>July 2013</p>	<p>Regular funds from the budget for 2013</p>	<p>Law on Social and Child Protection adopted along with the secondary legislation:</p> <ol style="list-style-type: none"> <li>1. Rulebook on minimum standards of the quality of social and child protection services;</li> <li>2. Rulebook on family accommodation/fostering</li> <li>3. Rulebook on the work of social work centres,</li> <li>4. Rulebook on regulatory mechanisms (licensing, accreditation)</li> <li>5. Rulebook on material benefits</li> </ol>	



					6. Rulebook on records The Law on Ratification of the Optional Protocol III on communication procedures (appeal) to the Convention on the Rights of the Child adopted, allowing the child the opportunity to access to justice at the international level, through the newly adopted appeals process	
3.8.1.4	Adoption and application of the new National Action Plan for Children (NAP) 2013-2017	MLSW, ME, MH, UNICEF	June 2013	Regular budgetary funds for 2013 EUR 14,460 (working group of 8 members, effective work of 2 months, EUR 12,960, public debate EUR 1,500)	NAP for Children adopted; Report of the UN Committee for the Rights of the Child; Planned and provided budgetary funds for the application of NAP provided; Council for the Rights of a Child monitors, supervises, coordinates and stimulates the application of NAP.	Regular monitoring and updating of indicators of impact from the NAP for Children in all areas; Report of the UN Committee on the Rights of the Child.
3.8.1.5	Adoption of the Strategy of developing social and child protection 2013-2017	MLSW, ME, MH, MC, NGO UNICEF	December 2013	Regular budgetary funds for 2013 EUR 14,460 (working group of 8 members, effective work of 2 months, EUR 12,960, public debate EUR 1,500)	Strategy of developing social and child protection adopted EC progress report	

3.8.1.6	Adopting a new decision on establishing the Council for Rights of a Child which will expand the competences of the Council. Extension of capacities of the Council to all areas defined under the UN Convention on right of a child and optional protocol, ensure participation of NGO sector and children in the work of the Council.	MRSS	June - December 2014	No funding required	Council for Children's Rights established A working group that provides professional and technical support to the Council for the Rights of the Child established	Council monitors and reports on the implementation of recommendations of the UN Committee on the Rights of the Child; The Council holds at least 4 regular sessions annually; Report of the UN Committee on the Rights of the Child
3.8.1.7	Organisation of specialist trainings for judges and prosecutors for juveniles to strengthen the dialogue between the judges in the countries of the region and exchange experiences with EU countries	Judicial Training Centre, TAIEX Workshop 2014	from January 2014 and further 3 seminars per year	Regular budgetary funds EUR 6,000 Additional funds from foreign donations annually necessary - EUR 12,000 (EUR 6,000 per seminar)	Special training programme adopted; Annual report of the Training Centre; Number of planned trainings; Evaluation reports on conducted trainings TAIEX workshop organized in order to exchange experiences of judges in the region and EU countries	
3.8.1.8	Employ one officer on the protection of rights of children in the institution of the Protector of Human Rights and Freedoms of Montenegro Link – measures regarding recruitment in the institution of the Protector of Human Rights and Freedoms 3.1.6 and 3.6.1.4	Ombudsman	March 2014	Necessary increase of the budget for EU 10,000 in 2014	One officer employed	

3.8.1.9	<p>Form a "Network of Golden Advisors of the Ombudsman" involved in the activities of the Protector in the promotion and protection of children's rights</p> <p>The network includes all children of secondary school age.</p> <p>Sustainability of the network ensured (regular meetings, prepared comments, and direct contacts with representatives of the Protector).</p> <p>Brochures and other materials published</p>	Ombudsman in cooperation with secondary schools	December 2014 and continuously	<p>Ombudsman's budget (necessary to increase funds in 2014 for EUR 5,500)</p> <p>Looked-for assistance or donor project of EU, CoE, the United Nations etc.</p>	<p>The Network of Golden Advisors of the Ombudsman established, made of representatives of secondary school children.</p> <p>Reports on network performance prepared.</p> <p>Annual conference organised</p>	<p>Number of schools that have their representatives in the network.</p> <p>Reports available at web site of the institution</p>
3.8.1.10	<p>Implement a campaign to advise children and citizens of their rights and powers of the Protector in prevention, promotion and protection of their rights.</p> <p>Distribution of thematic publications on children's rights.</p> <p>Campaigns specifically cover children with disabilities, especially girls, their associations that deal with children's rights, children from socially disadvantaged families and the general public.</p>	The Protector of Human Rights and Freedoms in cooperation with bodies, organizations and institutions (including experts on children's rights)	Third quarter of 2015 and continuous	<p>Ombudsman's budget (necessary to increase funds in 2015 for EUR 5,000)</p> <p>Looked-for assistance or donor project of EU, CoE, the United Nations etc.</p>	Campaign conducted and Information prepared on the campaign to inform children and citizens of their rights and powers of the Protector in promotion, prevention and protection of the rights of children and the elderly.	
3.8.1.11	Adopt Strategy of developing social and child protection with an action plan for the reform of the social welfare centres, reorganization of	MLSW in co-operation with MHMR, Ombudsman,	December 2013 Annually reporting on	Budget EUR 14,460 (working group of 8 members,	Strategy and action plan established, report on implementation of the action plan prepared	

	their work process and the application of the new methodology.	NGOs Expert support of UNICEF needed	implementation	effective work of 2 months, EUR 12,960, public debate EUR 1,500)		
3.8.1.12	Adopt and monitor the implementation of new methodology of the employees, determined on the basis of the Strategy	MLSW	July 2014	Budget IPA 2011 EUR 31,000	Methodology adopted  Methodology of case piloted in selected centres for social work  Number of centres that apply the new methodology  Report on centres' work	More efficient work of centres  Number of complaints reduced  Number of complaints to the competent authorities reduced
3.8.1.13	Prepare a plan for the transformation of residential institutions for social and child protection, which will contain: - The number of necessary small home communities and foster homes needed for the relocation of children placed in Children's Home in Bijela; - Number of employees; - Amount and method of providing funds for the relocation; - Authorities; - Potential sources of funding	MLSW	December 2013	IPA 2011 EUR 29,500	Plan prepared	Number of children in the residential institutions for social and child protection reduced by 30% (no children aged 0-3 in residential institutions by 2017)
3.8.1.14	Conduct the campaign for raising awareness on significance of family	MLSW UNICEF	2013-2014	Budget IPA 2011	Organised public campaign for raising awareness on	

	for a child, strengths and significance of the institute of foster care			EUR 71,500	strengths and significance of the institute of foster care	
3.8.1.15	Organise special trainings for employees working in institutions for enforcement of criminal sanctions aimed at training them for designing special programmes for treatment of juveniles to whom criminal sanctions have been imposed	Institution for Enforcement of Criminal Sanctions Police Academy Human Resources Administration Ministry of Labour and Social Welfare	June 2013 – January 2014	Budget IPA 2011 and UNICEF EUR 14,000	Special training programmes adopted Number of planned trainings Evaluation reports on organised trainings Employees trained in accordance with international standards	
3.8.1.16	Make annual analyses of individual programmes for treatment of juveniles, particularly with regard to education of juveniles and their re-socialisation, and give recommendations grounded in the analyses for improvement of individual programmes for treatment of juveniles	Ministry of Justice Ministry of Labour and Social Welfare Institution for Enforcement of Criminal Sanctions Centre for Children and Youth Ljubović	Continuous	Budget IPA 2011 and UNICEF EUR 14,000	Analyses made Number of recommendations Report on implementation of recommendations Improved juvenile treatment program in accordance with international standards	
3.8.1.17	Improvement of the work and treatment of juveniles who are in custody and who had been sentenced with criminal sanction according to best practices and relevant international standards.	Institute for Execution of Criminal Sanctions, Police Academy,	June 2013 – January 2014	Budget IPA 2011 and UNICEF EUR 14,000	Adopted and implemented special training programs for working with juveniles in the Institute for Execution of Criminal Sanctions; Officers are trained to work with	100% of children in Institute for Execution of Criminal Sanctions have individual rehabilitation and

		Human Resources Management, Ministry of Labour and Social Welfare			juveniles in accordance with special programs and international standards, Juveniles who reside in custody serving a prison sentence are separated from adults, Juveniles who reside in custody serving a prison sentence are enabled with education and vocational training in accordance with age and interests.	reintegration program and have access to education  100% employees of the Institute for Execution of Criminal Sanctions who are contacting and working with children are trained according to training programme.
3.8.1.18	Strengthen human resources in the educational service of the Centre for Children and Youth Ljubović by recruiting two special educationalists	Ministry of Labour and Social Welfare Centre for Children and Youth Ljubović	June 2013 – January 2014	Necessary increase in funds for EUR 3,240 in 2014 for two new employees	Two special educationalists in the educational service	
3.8.1.19	Continue education of experts working in the Centre for Children and Youth Ljubović	Ministry of Labour and Social Welfare	June 2013 – January 2014 continuous	Budget IPA 2011 and UNICEF EUR 14,000	Number of organised trainings and trained staff Evaluation of work of experts by accommodated inmates through surveys	
3.8.1.20	Establish an electronic database on the number of juveniles as perpetrators of criminal offenses, their age, type of offenses and length and type of sanctions imposed within PRIS.	Ministry of Justice, Judicial Council	June 2014	IPA 2011 and UNICEF EUR 13,000	Established and updated electronic database and electronic criminal records database	Available statistics on the number of juveniles as perpetrators of criminal offense, their age, type of

	Establish special electronic database on corrective measures and juvenile prison.					offenses, length and type of imposed sanctions, corrective measures and juvenile prison.
3.8.1.21	Develop a network of daily care centres for children with developmental disorders in cooperation with the NGO	Ministry of Labour and Social Welfare Local self-governments NGO	January 2014 - 2017	Budget IPA 2011 and UNICEF EUR 69,000	Daily care centres for children with developmental disorders constructed and functional in all municipalities Number of municipalities with functional daily care centres	Number of children who use the services of daily care centres and small group homes increased
3.8.1.22	Develop a network of small group houses for children without parental care and for children with developmental disorders	Ministry of Labour and Social Welfare Local self-governments	2013-2017	Budget IPA 2011 and UNICEF USA Embassy EUR 330,000 EUR 44,000	Small group houses constructed and functional in 5 municipalities	Number of children who use the services of daily care centres and small group homes increased
3.8.1.23	Keep developing inclusive preschool, primary and secondary education for children with developmental disorders in communities in which they live	Ministry of Education NGO	2013 continuous	Budget IPA 2011 and UNICEF EUR 28,500	Children with developmental disorders covered by preschool education system. Children with developmental disorders covered by the regular education system.	Number of children with developmental disorders included in the educational system increased in comparison to the previous year
3.8.1.24	Organise further trainings for members of the commissions dealing with orientation of children with special educational needs	Ministry of Education and Sports	2013 - 2017	Budget IPA 2011 and UNICEF EUR 4,800	Members of the commissions dealing with orientation of children with special educational needs trained in accordance with the recognised need for capacity	

strengthening

### 3.8.2. Recommendation: Improve the protection and enforcement of rights of persons with disabilities, including by strengthening the relevant councils, and continue deinstitutionalisation where possible.

#### CURRENT SITUATION

Within the field of protection from discrimination of persons with disabilities, national legal framework has been defined, and relevant international conventions have been ratified. The Law on Fight against Discrimination of Persons with Disabilities is in force; however some deficiencies exist, therefore it needs to be amended in particular as concerns the definitions and the sanctions.

The recommendation to oblige employers to provide reasonable adjustments of workplace, made in accordance with Article 5 of Directive 2000/78/EC, has been incorporated in the Law on Professional Rehabilitation and Employment of Persons with Disabilities, where Article 15 prescribes general and special employment conditions. According to this Article, adjustment of work activities is considered to be adjustment of work process and work tasks, and adjustment of workplace is considered to be technical and technological equipment of a workplace, instruments of labour, space and equipment, in accordance with capabilities and needs of persons with disabilities. The same Law (Article 36) provides for entitlement of the employer hiring person with disability to subsidies, such as: non-repayable funds for adjustment of the workplace and work conditions needed for the employment of a person with disability; granting of loans under favourable conditions for the purchase of machines, equipment and tools needed for the employment of a person with disability; participation in the financing of personal costs of an assistant (providing support at work) to the person with disability; subsidized wages of persons with disabilities.

In order to monitor the implementation of new legal frameworks and improve the institutional system, an important role has been given to the Council for the Care of Persons with Disabilities, participated by the representatives of the Government and NGOs. The Council is tasked with: protection and promotion of rights of persons with disabilities in the fields of social and health protection, education and upbringing, professional training and employment; initiating the adoption of regulations for the development and improvement of their rights; proposing measures for the improvement of the quality of their life; providing information to the public on their rights, capabilities and needs to eliminate the prejudices and barriers placed before them; ensuring their exercise of other rights important for their status.

The Strategy for the Integration of Persons with Disabilities is currently implemented (2008-2016). Implementation of the Strategy on annual level is analyzed by a working group comprised of representatives of relevant ministries and non-governmental sector. The major progress has been assessed to be the adoption of the mentioned set of laws and the implementation of a large number of awareness raising campaigns, along with the media coverage of all events, which have contributed to a better general inclusion of persons with disabilities in all the areas of social life.

No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
3.8.2.1	Develop Initial Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities	MLSW in cooperation with relevant ministries NGO sector The Protector of	December 2013	Regular budgetary funds EUR 7,776	Report prepared, submitted to the UN Committee monitoring the Convention on the	Improved evaluation of state of affairs in the UN report on Montenegro



		Human Rights and Freedoms of Montenegro			Rights of Persons with Disabilities	
3.8.2.2	Develop and adopt a Strategy for the integration of persons with disabilities in Montenegro for the period 2014-2015 and Action Plan with priority measures and activities for protection against discrimination and the empowerment of persons with disabilities in the areas of health, social and child care, education, employment, accessibility, culture, sports and media, as well as areas related to organizations that deal with issues of persons with disabilities.	MLSW in cooperation with relevant ministries NGO sector The Protector of Human Rights and Freedoms of Montenegro	March 2014	Regular budgetary funds EUR 4,860	The Action Plan adopted	Annual report on implementation of the Action plan for monitoring of the Strategy for the integration of persons with disabilities in Montenegro
3.8.2.3	Develop a Strategy for inclusive education for the period 2014-2018	MLSW in cooperation with relevant ministries and NGO sector	December 2013	Regular budgetary funds EUR 3,400 Budget EUR 14,460 (working group of 8 members, effective work of 2 months, EUR 12,960, public debate EUR 1,500)	The Strategy and Action Plan adopted	Report on implementation of measures referred to in the Action Plan.
3.8.2.4	Amendments to the Law on Prohibition of Discrimination of disabled persons in terms of definitions and sanctions so as to	MLSW in cooperation with relevant ministries NGO sector	December 2014	Regular budgetary funds EUR 4,860	Law on Prohibition of Discrimination amended	Annual report of the Ombudsman with a number of actions filed on the basis of

	comply with the EU and UN standards in terms of a definition of discrimination, and a more clearly defined part that refers to sanctions					discrimination, and the number of cases processed and penalties.
3.8.2.5	Amend the Law on Spatial Development and Construction of Structures for the purpose of introducing enhanced obligations of all subjects of control in process of monitoring compliance with the requirements for access and movement of persons with reduced mobility, as well as for faster, easier and cheaper construction of facilities (access ramps, lifts, etc.) since the construction of those will be treated as the construction of temporary facilities.	Ministry of Sustainable Development and Tourism, NGOs of persons with disabilities	September 2013	Regular budgetary funds EUR 4,860	The Law on Spatial Development and Construction of Structures amended	Annual information on implementation of the Strategy on persons with disabilities - a part that covers accessibility.
3.8.2.6	Amend the Rulebook on detailed conditions and method of adjusting the facilities for the access and movement of persons with reduced mobility.	Ministry of Sustainable Development and Tourism NGOs of persons with disabilities	December 2013	Regular budgetary funds EUR 2,430	Number of completed inspection controls in the process of monitoring compliance with the requirements for access and movement of persons with reduced mobility.	Annual information on implementation of the Strategy on persons with disabilities - a part that covers accessibility.

					<p>Number of building permits issued in accordance with the conditions of access and movement of persons with reduced mobility.</p> <p>Number of sentences in the process of monitoring compliance with the conditions of access and movement of persons with reduced mobility.</p>	
3.8.2.7	Include persons with disabilities in measures of active employment policy through professional information and counselling of persons with disabilities, equipment at place of work, subsidies for employment of persons with disabilities etc.	Ministry of Labour and Social Welfare Employment Office of Montenegro NGOs dealing with persons with disabilities	December 2013 and beyond, with this amount of money as minimum amount every year	Regular budgetary funds EUR 300,000	<p>Increased number of implemented measures of active employment policy.</p> <p>Increased number of implemented programs.</p>	<p>Increased number of persons with disabilities who have been provided with a service.</p> <p>Increased number of persons with</p>

						<p>disabilities who are included in the measures of active employment policy.</p> <p>Increased number of employed persons with disabilities.</p>
3.8.2.8	<p>Implementation of the measures and activities of vocational rehabilitation of persons with disabilities, subject to the assessment and opinion of local vocational rehabilitation committees, within inclusion of persons with disabilities into adequate modules of vocational rehabilitation</p>	<p>Ministry of Labour and Social Welfare Employment Office of Montenegro NGOs dealing with persons with disabilities</p>	<p>December 2013 and beyond, with this amount of money as minimum amount every year</p>	<p>Regular budgetary funds EUR 150,000</p>	<p>Increased number of persons with disabilities included in individual measures and activities of vocational rehabilitation.</p>	<p>Annual information on implementation of the Strategy on persons with disabilities - a part that covers employment.</p>
3.8.2.9	<p>Draft a Proposal for the Rulebook on financing special employment organisations and grant schemes funding</p> <p>Fund grant schemes to encourage employment of persons with disabilities and to support the development of entrepreneurship of persons with disabilities</p>	<p>Ministry of Labour and Social Welfare Employment Office of Montenegro NGOs dealing with persons with disabilities</p>	<p>December 2013 and beyond, with this amount of money as minimum amount every year.</p>	<p>Regular budgetary funds EUR 55,000</p>	<p>Rulebook drafted</p> <p>Increased number of persons with disabilities that are employable: in the open labour market; under special conditions; unemployable persons with disabilities.</p> <p>Increased number of loans.</p>	<p>Annual information on implementation of the Strategy on persons with disabilities - a part that covers employment.</p>

					<p>Increased number of implemented programs and projects.</p> <p>Increased number of persons involved.</p> <p>Increased number of employees after the implemented measures and activities.</p>	
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**3.9. Recommendation: Ensure the effective functioning of the free legal aid system, also through the allocation of sufficient financial means.**

**CURRENT SITUATION**

By adopting the Law on Free Legal Aid, which started to be applied as of 1 January 2012, the conditions were created that a party cannot be limited due to bad financial situation in the exercise and protection of a right. A person who is indigent has the right to free legal aid, and without assessing indigence, the right to free legal aid is realized by the beneficiaries of social welfare, persons with special needs, children without parental care and victims of the criminal offence of domestic violence or in domestic violence unit and victims of trafficking. This right can be realized in the proceedings before the court, the State Prosecutor's Office, the Constitutional Court and out of court dispute resolution, and for filing a petition to the European Court of Human Rights. Forms of free legal aid that can be approved include legal advice, drafting of letters and representation, and granting some of the form of the free legal aid implies exemption from paying the costs of proceedings for which free legal aid is granted. Basic courts grant free legal aid and in each basic court Offices for the free legal aid has been established (15 services of which 6 services is currently completely and identically technically equipped, while improving of the technical prerequisites for full operation of the remaining nine services in the court building is in progress) which are responsible for the technical and administrative tasks in the process of granting free legal aid and legal advice. Free legal aid is provided by lawyers included in a list drawn up by the Bar Association. As part of the project to support the establishment and implementation of free legal aid, supported by the United Nations/UNDP, the Government of the Kingdom of Norway and the Kingdom of the Netherlands, support was provided in infrastructure development, promotion of the service and training of free legal aid providers. In the previous period two trainings for a total of 87 participants were organized (advisors in services, presidents of the courts, judges, counsels, representatives of the state administration and NGO sectors).

Also, the procedural law guarantees the so-called right of indigent persons or the right of the poor to be freed from paying the costs of the proceedings, including the costs of paying taxes and advance expenses to present evidence, and actual cost of a lawyer when the court at the request of the party determines that it will be represented by counsel.

The courts are organized so as to ensure that citizens can exercise their right of access to court. In terms of civil procedural law, a party has the right to hire a lawyer, and yet a party may independently file the appropriate legal instrument and easily access any court, and the court is obliged to warn the party, which does not have a qualified attorney and who out of ignorance does not use the rights established by law, of actions that can be taken.

No.	Measure / Activity	Responsible authority	Deadline	Required funds/ Source of financing	Indicator of result	Indicator of impact
3.9.1	Prepare annual analysis of approved cases of free legal aid and necessary funds for financing at annual level , and as a special subject of the analysis include the approved cases of legal aid for persons whose financial situation is not evaluated: namely persons with special needs, the beneficiaries of social welfare, children without parental care, victims of the crime of trafficking and domestic violence	Ministry of Justice, Supreme Court, Court Council	October 2013 for the previous year and continuous	Budget, United Nations/ UNDP, the Government of the Kingdom of Norway	Analysis conducted and financial funds for approved cases approved	Prepare annual analysis of approved cases of free legal aid and necessary funds for financing at annual level , and as a special subject of the analysis include the approved cases of legal aid for persons whose financial situation is not evaluated: namely persons with special needs, the beneficiaries of social welfare, children without parental care, victims of the crime of trafficking and domestic violence
3.9.2	Provide the necessary financial resources in the budget for free legal aid for the current year	Judicial Council, Ministry of Finance	Continuous for each budget year	Budget	Funds provided in the budget for free legal aid; Percentage of provided funds in relation to the approved cases	On grounds of results from measure 1 provide the necessary financial resources for free legal aid in budget
3.9.3	Raising public awareness of the right to free legal aid and ways of exercising	Ministry of Justice, Courts	September 2013 and continuously	United Nations/UNDP, Government	Brochure on the right to free legal aid	Raising public awareness of the right to free legal aid and ways of exercising

				of the Kingdom of Norway  Brochures and campaign – EUR 36,000	available to all citizens in the courts, on the website of the Ministry of Justice and the courts. Special TV Show, Ads published in daily newspapers.	
3.9.4	Carry out training on implementation of the Law on Free Legal Aid, designed for officers in free legal aid, court presidents, judges and lawyers, representatives of the state administration and NGO sectors	Ministry of Justice, Judicial training centre, Human Resources Administration	December 2013 and continuously	United Nations/UNDP, Government of the Kingdom of Norway, OSCE  Trainings – EUR 24,000	Number of trainings conducted, Number and structure of participants Annual Report of the Judicial training centre, Human Resources Administration	Development and implementation of specific training programs for officers in free legal aid, court presidents, judges and lawyers
3.9.5	Improve the infrastructure of offices for free legal aid/equip the remaining 9 offices for free legal aid  Develop a separate database for free legal aid within the Judicial Information System (PRIS), which will enable keeping records of the number, type, costs and category	Ministry of Justice, Supreme Court	April 2013 and continuous	United Nations/UNDP, Government of the Kingdom of Norway through the project “Improving the efficiency of	Number of offices for free legal aid which were rehabilitated and equipped with furniture and IT equipment.	All offices for free legal aid completely and identically technically equipped.  Within the Judicial Information System (PRIS) provided database of the number, type, costs and category of persons to who free legal aid have been provided.

	of persons who free legal aid have been provided			the judiciary and access to justice through the application of the Law on Free Legal Aid and improving mediation”  9 offices for free legal aid with computers – EUR 40,000  Database – EUR 10,000	Established database for free legal aid within the Judicial Information System (PRIS) functional.	
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**3.10.1 Recommendation: Take concrete measure to prevent discrimination of minorities. Ensure continuous registration of the RAE population, as well as their equal access to economic and social rights and their adequate representation in public authorities. Particular focus should be given to improve the living conditions of the poorest part of the RAE population.**

#### CURRENT SITUATION

Montenegro is defined by the Constitution as civil, democratic, ecological and social justice state, based on the rule of law. The citizen is a carrier of sovereignty having Montenegrin citizenship. The Constitution of Montenegro lays down legal basis for the promotion, strengthening and advancement of protection of fundamental human rights and freedoms and confirms the obligation of Montenegro to respect international standards in that regard. Almost half of Constitution articles (68 of 158) relate to human rights and freedoms which confirms its importance in normative sense. In addition to the fundamental human rights and freedoms, aimed at protection of national identity, Constitution and laws provide a series of additional rights to the minorities. The Constitution, in the Second Chapter, articles 79 and 80 guarantees the members of minority nations and other minority national communities the rights and freedoms, which may be exercised individually or in community with other people, prohibits the assimilation of members of minority nations and other minority national communities. The State is obliged to protect members of minority nations and other minority national communities from all forms of violent assimilation. Law on Minority Rights and Freedoms stipulates in more detail the series of minority rights and protection mechanisms. The law relates to the preservation of national identity of minorities, i.e. the protection from assimilation of minorities as well as provide the adequate participation of minorities in the public life. According to the Law definition, minority nations and other minority national communities is the group of citizens of Montenegro, who is in numbers less than majority population, having joint ethnic, religious, linguistic characteristic, different from other part of population, historically linked to Montenegro and



motivated by the wish to speak out and preserve the national, ethnic, cultural, language and religious identity. In addition to the Law on Minority Rights and Freedoms, the legal framework governing the rights of minority nations and other minority national communities is composed of the laws and other acts governing the exercise of rights in certain areas such as education, informing, culture, use of language and alphabet etc. In certain areas of social life important for the preservation of the identity of minority nations, measures were taken which resulted in the full respect of international standards and achievement of modern multinational democracies. We aspire to attain certain levels, in those areas where the desired goals have not been reached, which will legitimate Montenegro and its commitment to further promote the traditionally good international, inter-confessional and intercultural relations. One of these areas where a lot of work is ahead of us is the participation of minorities in the public authority. In 2011, this Ministry prepared the Information on the representation of minority nations and other minority national communities in public services, public authorities and local self-government bodies in Montenegro. It is the first of the kind, serious and comprehensive research on the implementation of constitutional and legal guarantee of the right to proportional representation in public services, public authorities and local self-government bodies.

When it comes to institutional field, there are three very important institutions established in our social environment, concerning improvement and protection of minority rights and freedoms, and those are Minority Councils, Fund for the protection and exercise of minority rights, Centre for preservation and development of minority culture. At the proposal of the Government of Montenegro, the Parliament of Montenegro passed the decision on the establishment of the Fund for Minorities in 2008. Fund was established so as to support activities important for the preservation and development of national and ethnic specificities of minority nations and other minority national communities and their members in the area of national, ethnic, cultural, linguistic and religious identity. As of its establishment, the Fund for Minorities is a separate budget unit. Certain problems have occurred in the up-to-date operation of this institution in terms of establishing the control mechanism for spending of funds for the purpose other than intended (monitoring and evaluation of projects financed by the Fund) and that is why it is necessary to consider a way of finding a solution to these problems.

Unlike other minority nations and minority national communities, who are integrated in the modern Montenegrin society, Roma and Egyptians are the most vulnerable and the most marginalised minority national community in Montenegro. Low economic power, low level of education, a very low rate of employment, inadequate housing conditions, social exclusion with backlashes of ethnic stereotypes and prejudices, specific way of living and other characteristic are some of causes of their difficult position in the society. Systematic response of the Government of Montenegro to the problems of Roma and Egyptian population started after the regional conference »Roma in expanded Europe«, and after that Montenegro became part of the project »Decade of Roma Inclusion 2005-2015«. Government of Montenegro adopted the Strategy for the improvement of the status of RAE population in Montenegro 2008-2012. The Strategy represents the set of specific measures and activities in four years period, in legal, political, economic, social, housing and utility, educational, health, cultural, informational and any other sphere. The Strategy defines the implementers, time frame, funds, as well as the monitoring of implementation of the project and obligation to inform the Government yearly about its implementation. Measures and activities undertaken so far aimed at advancement of the status of Roma and Egyptians resulted in very significant and visible but not quite sufficient changes. Even though certain results have been made in the implementation of Action Plan for the Decade of Roma Inclusion in Montenegro and Strategy for Improvement of the status of the RAE population in Montenegro 2008-2012, the expected results in terms of advancement of total status of the Roma and Egyptian community collectively are still lacking. Due to that fact, the Government of Montenegro adopted new strategic document on 5 April 2013 – Strategy for the advancement of the status of Roma and Egyptians in Montenegro 2012-2016, which relies on the European framework for national strategies of Roma integration until 2020, with a view to the four objectives of integration defined.

No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
3.10.1.1	Promote the principle of civil education and upbringing, as well as humanitarian values in the spirit of tradition, culture and history of minorities, in the teaching programmes	Ministry of Education, Burro for Educational Services, Minority Councils	December 2014	Budget - EUR 2,430 (includes one person from the authorities, effective work of one month)	Number of programmes in primary and secondary education	Promoted principles of civil education and upbringing, syllabus on tradition, culture and history of minorities incorporated, increased level of tolerance
3.10.1.2	Stimulate and support amateurism of minorities in the area of culture, particularly music and folklore, as well as support to publish periodicals, with a special emphasis to minority literature	Ministry of Culture Fund for Achievement of Minority Rights Centre for Preservation and Development of Minority Culture	December 2013, December 2014, fourth quarter of 2015, 2016, 2017	Budget funds of the Ministry of Culture, Fund for Achievement of Minority Rights and Centre for Preservation and Development of Minority Culture	Number of supported programmes Amount of funds	Supported activities that are important for preservation and development of national and ethnic particularities of minorities
3.10.1.3	Continuation of creating radio and TV shows on minorities and in minority languages, particularly those important for development of science, culture and informing	Radio Television of Montenegro Local Radio Broadcasting Service	December 2013, December 2014, Fourth quarter of 2015, 2016, 2017	Budget funds of the Radio Television of Montenegro and Local Services	Continued creation of radio and TV shows on minorities and in minority languages, particularly those important for development of science, culture and informing	Increased level of radio and TV shows on minorities and in minority languages, development of inter-culturality and tolerance
3.10.1.4	Write names of public authorities, local	Local self-	December	Budget funds of	Names of public	Fulfilment of

	self-government units, settlements, squares, streets, institutions, companies, business and other firms and toponyms in minority languages and alphabets	governments Public authorities	2014	local self-governments and public authorities	authorities, local self-government units, settlements, squares, streets, institutions, companies, business and other firms and toponyms written in minority languages and alphabets	constitutional rights (Article 79, item 8) and guarantees referred to in the Law on minority rights and freedoms (Article 11 item 4).
3.10.1.5	Establish the system of human resources registers in all public administration bodies, local self-government units and public services, provide full update of the Central human resources records and records of judicial office holders	Human Resources Administration Ministry for Human and Minority Rights Local self-governments Supreme Public Prosecutor's Office Judiciary Council	December 2014	No funds required	Established system of human resources registers in public administration bodies, local self-government units and public services, updated Central human resources records and records of judicial office holders	Ensured monitoring of the right to proportional representation of minorities in public administration bodies, local self-government units and in public services
3.10.1.6	Conduct periodical surveys on representation of minorities in public administration bodies, local self-government units and public services	Ministry for Human and Minority Rights Human Resources Administration NGO	June 2013 December 2014 Fourth quarter of 2015 Fourth quarter	Budget funds of the Ministry for Human and Minority Rights and Human Resources	Number of periodical surveys on representation of minorities in public administration	Monitoring of changes in exercising the right to proportional representation of minorities in public

			of 2016	Administration	bodies, local self-government units and public services	administration bodies, local self-government units and in public services
3.10.1.7	Bearing in mind competences of the Minority Council, sign memoranda on cooperation between the councils of minority nations and other minority national communities and the Human Resources Administration and the University	Ministry for Human and Minority Rights Human Resources Administration University of Montenegro	May 2014	No funds required	Memorandums signed	Legal competences of the council of minorities accomplished in terms of admission policy to the University and human resources policy in public administration
3.10.1.8	Make an analysis of the legislative framework for operation of the Fund for Minority Rights Exercise and Protection	Committee on Human Rights and Freedoms of the Parliament of Montenegro Ministry for Human and Minority Rights	February 2014	No funds required	Analysis carried out Legislative framework amended in accordance with the analysis	Recommendations from the analyses carried out in practice and the operation of the Fund improved
3.10.1.9	Establish control of earmarked spending of financial resources (monitoring and evaluation of projects finances from the Fund's resources)	Committee on Human Rights and Freedoms of the Parliament of Montenegro Minority Fund	March 2014 March 2015 and continuing	No funds required	Control of earmarked spending of financial resources established Annual report of the Fund	Earmarked spending of the financial resources of the Fund, along with the project monitoring
3.10.1.10	Strengthen administrative capacities of the Fund for Minority Rights Exercise	Minority Fund Ministry of Finance	March 2014 March 2015	Budget funds of the Minority Fund	Administrative capacities	More efficient operations of the

	and Protection			EUR 12,000 for 2014 and EUR 12,000 for 2015	strengthened by employing two employees, one in 2014 and another in 2015	Fund
3.10.1.11	Develop a plan and enrol RAE population children, enable free stay and food in kindergartens for RAE children from families with social needs	Ministry of Education, Ministry for Human and Minority Rights, Ministry of Labour and Social Welfare Refugee Care and Support Office NGO	December 2013 December 2014 Fourth quarter of 2015 Fourth quarter of 2016	Budged funds of the Ministry of Education for developing the plan and the enrolment of children. Donor funds	Number of children from RAE population included in preschool and kindergarten education and upbringing Annual report of the Ministry of Education	Increased number of children in kindergartens, increased readiness to attend elementary schools
3.10.1.12	Reduce the level of segregation of RAE pupils	Ministry of Education in cooperation with local social services	December 2013 December 2014 December 2015	IPA 2011 EUR 500,000 for 3 years	Number of RAE children enrolled in city schools and the number of included city schools, number of workshops and parents involved, number of engaged mediators	Ensured equal access to education and elimination of segregation
3.10.1.13	Provide textbooks and school supplies for RAE children	Ministry of Education, Ministry for Human and Minority Rights	September 2013 September 2014 September 2015	Budgetary funds of the Ministry of Education EUR 15,000 per year and the Ministry for	Textbooks and school supplies provided for 100% of the target group – RAE children	Assistance to children and their parents for a regular attendance to classes; reduced number of drop-outs

			September 2016	Human and Minority Rights EUR 75,000 per year	Annual report of the Ministry of Education	
3.10.1.14	Ensure adequate number of scholarships for secondary school pupils and students	Ministry of Education Ministry for Human and Minority Rights	September 2013 September 2014 September 2015 September 2016	Budget funds of the Ministry for Human and Minority Rights EUR 75,000 per year	Scholarships provided Number of secondary school pupils and students receiving scholarships	Stimulation to keep on with education, increased number of children and youth in secondary schools and at universities
3.10.1.15	Organise campaigns and school activities and projects and use examples of prominent, successful and highly educated members of RAE population	Ministry of Education Ministry for Human and Minority rights NGO	December 2013 December 2014 Fourth quarter of 2015 Fourth quarter of 2016	Budget funds of the Ministry of Education EUR 10,000 per year	Number of TV and radio shows about promotion of education of RAE population, Number of presentations of highly educated members of RAE population delivered to school children and their parents	Promote importance of education of RAE population (children and parents) Increased motivation for education, increased number of members of RAE population at all educational levels
3.10.1.16	Implement the program of functional literacy of the adult population;	Ministry of Education Centre for vocational education	December 2013 December 2014 Fourth quarter of 2015 and 2016	Budget funds of the Ministry of Education EUR 10,000 per year	Number of programs and number of attendees	Percentage of increase of attendees at adult education programs
3.10.1.17	Implement informational campaigns on	Employment Agency	December	Funds from the	Number of	Increased level of

	rights and obligations in the employment area; informational interviews for newly registered persons in the employment offices; informational and motivational seminars (workshops)	of Montenegro Ministry of Labour and Social Welfare NGO	2013 December 2014 December 2015 December 2016	Budget of Montenegro intended for active employment policy measures (EUR 2,000 per year)	campaigns implemented Number of announcements in the media Number of newly registered persons (% of women) Number of informational interviews held (% of women) Number of participants in workshops Numbers of employment plans designed	knowledge of REA population about rights and obligations in the employment area
3.10.1.18	Organize programmes for acquisition of the first qualification for persons with no professional qualifications	Employment Agency of Montenegro Centre for Vocational Education	December 2013 December 2014 December 2015 December 2016	Funds from the Budget of Montenegro intended for active employment policy measures (EUR 10,000 at the annual level)	Number of implemented programmes Number of persons covered by programmes (% of women), with age and regional structure	Increased number of members of REA population with acquired first qualification
3.10.1.19	Organise programmes for education and training for known employer	Employment Agency of Montenegro Montenegrin Employers Federation	December 2013 December 2014 December	Funds from the Budget of Montenegro intended for active employment policy	Number of implemented programmes and projects Number of	Increased number of trained members of REA population and increase of employment rate

			2015 December 2016	measures (EUR 5,000 at the annual level ) Project activities	covered persons Number of employed persons	
3.10.1.20	Seasonal employment of RAE population registered with the Employment Agency of Montenegro, in line with demand and professional qualifications of those persons in area of tourism, construction and agriculture	Employment Agency of Montenegro	October 2013 October 2014 October 2015 October 2016	Budget funds from the Employment Agency of Montenegro, regular activity of mediation in the labour market	Number of seasonally employed persons during the year (% of women) with age and regional structure	Increased number of persons involved in seasonal jobs
3.10.1.21	Implement a programme for subsidised employment in accordance with the Decree on subsidies for employment of certain categories of unemployed persons	Ministry of Labour and Social Welfare Employment Agency of Montenegro	December 2013 December 2014 December 2015 December 2016	Funds from the Budget of Montenegro (EUR 40,000 at the annual level)	Number of implemented programmes and projects Number of persons covered by subsidised employment	Deeper interest of employers in employment of REA population
3.10.1.22	Monitor health condition and health needs of Roma and Egyptians	Ministry of Health, Institute for Public Health, Public health care institutions (Clinical Centre of Montenegro, general hospitals, medical centres)	December 2013 December 2014 Third quarter 2015 Third quarter of 2016	Budget funds from the Ministry of Health, Institute for Public health and Public health care institutions	Number of primary and control examinations, number of preventive examinations, number of referral slips to secondary and tertiary levels	Determined degree of use of health services by REA population
3.10.1.23	Organise educational and informational	Ministry of Health,	December	Budget funds from	Number of	Improved



	workshops, distribute educational material; open calls in the field of healthcare and healthcare needs	Institute for Public Health, Public health care institutions (Clinical Centre of Montenegro, general hospitals, medical centres)	2013 December 2014 December 2015 December 2016	the Ministry of Health, Institute for Public health and Public health care institutions NGO projects	educational and informational workshops Type and number of educational material distributed Number of open calls	knowledge about possibilities of use of health services
3.10.1.24	Produce informational and educational brochures and distribute them to women, youth and children, informing them on human rights, right to health and health protection, right to reproductive health, right to life without violence, etc. and educating them about health protection, sexuality, objective age for entering into marriage, safe sex, safe pregnancy, etc.	Ministry of Health, Institute for Public Health, Public health care institutions (Clinical Centre of Montenegro, general hospitals, medical centres) NGO	December 2013 December 2014	Budget funds from the Ministry of Health, Institute for Public health and Public health care institutions NGO projects	Number of RE children aged up to 15 years who have chosen general practitioner – paediatrician Number of women aged 15-65 years who have chosen general practitioner – gynaecologist Number of children who have undergone compulsory vaccination	Improved knowledge about importance of health protection, increased number of vaccinated children and children with chosen general practitioner – paediatrician, increased number of adults with chosen general practitioners, increased number of women who have chosen general practitioner – gynaecologist
3.10.1.25	Organise informational campaigns in settlements inhabited by Roma and Egyptians about the right to social and children protection and exercise thereof	Ministry of Labour and Social Welfare NGO	December 2013 December 2014	Budget funds from the Ministry of Labour and Social Welfare	Number of workshops and participants at the annual level in	REA population informed about the right to social and children protection

			December 2015	Donor funds NGO projects	each settlement Number of announcements in the electronic media at the annual level	and exercise thereof
3.10.1.26	Education of parents children, RAE activists, civil servants in state authorities on the protection from domestic violence and forced marriages of underage among Roma population	Ministry for Human and Minority Rights Ministry of Labour and Social Welfare JTC NGO	March 2014 Second quarter of 2015, 2016, 2017	Budget Additional funds needed from donations EUR 10,000 at the annual level	Number and type of training Number and structure of participants	Number of reported cases of violence, number of applications, types of provided legal aid
3.10.1.27	Organisation of campaigns in Roma settlements on problem of violence against women and forced marriages of RE girls	Ministry for Human and Minority Rights NGO	November 2013, Fourth quarter of 2014, 2015, 2016, 2017	Additional funds needed from donations EUR 5,000 at the annual level	Number of events related to underage forced marriages, number of media performances	Number of criminal charges referred to in the Criminal code of Montenegro
3.10.1.28	Organisation of training for young women belonging to national minorities and Roma in order to empower them to be engaged in politics  Link to measure 3.6.2.13	Ministry for Human and Minority Rights The Parliament NGO	Fourth quarter of 2014, 2015, 2016, 2017	Budget and donations EUR 4,000 at the annual level	Number of participants in trainings	Number of women, members of REA population, engaged in politics
3.10.1.29	Produce and broadcast legally defined programme contents in Roma language via public service of the Radio Television of Montenegro	Radio Television of Montenegro	December 2013 December 2014 December 2015 December 2016	Budget funds of the Radio Television of Montenegro - EUR 45,000 at the annual level Donor funds	Radio and Television of Montenegro – number of broadcasted shows	Production and broadcasting of shows on Radio and Television of Montenegro, REA population better informed
3.10.1.30	Precisely define programmes for Roma	Ministry of Culture	December	Budget funds of	Number of	Local radio

	and Egyptians in annual contracts on compulsory programme contents of public interest by local self-governments having local broadcasting services	Local self-government Local Radio Broadcasting Service	2013 December 2014 December 2015 December 2016	local self-government Local Radio Broadcasting Service Donor funds NGO projects	contracts with precisely stated programmes for Roma and Egyptians	broadcasting services broadcast programmes for REA population, local REA population better informed
3.10.1.31	Prepare the proposal for the Law on Social Housing. The Law will define the basic institutes of social housing, competences, specify the persons who are entitled to solving of the housing issue, define sources of financing, define the widest range of possibilities for development of social housing, i.e. the legal framework by which a lot of participants can be included in the social housing system, for the purpose of solving the housing needs of all the persons, namely households which cannot solve the housing need in the market.	Ministry of Sustainable Development and Tourism	December 2013	Budget funds from the Ministry of Sustainable Development and Tourism	Law on Social Housing adopted Report on implementation of the Law a year after its adoption Number of illegally built-up houses owned by REA population	Defined legal framework for providing of an adequate standard of housing for all households that have financial difficulties in exercising of their right to access to decent housing in the market
3.10.1.32	Establish cooperation with local self-governments in drafting and implementing local action plans for Roma and Egyptians (Berane, Bijelo Polje and Ulcinj).	Ministry for Human and Minority Rights Local self-governments	September 2013	Budget funds from the Ministry for Human and Minority Rights OSCE	Cooperation established with local self-governments Number of adopted action plans in municipalities	Defining and implementation of policies for social integration of REA population at local levels
3.10.1.33	Ensure respect for legally defined affirmative action measures when	Ministry for Human and Minority Rights	December 2013	Budget funds	Number of employments in	Implementation of constitutional and

	employing members of Roma and Egyptian population in public administration bodies, local self-government bodies and public services	Human Resources Administration	December 2014 December 2015 December 2016		public administration bodies, local self-government bodies and public services	legal guarantees, increased employment of REA in public administration bodies, local self-government bodies and public services
3.10.1.34	Build adequate administrative and organisational capacities in the Ministry for Human and Minority Rights for work with RAE population	Ministry for Human and Minority Rights	March 2014 March 2015	Budget funds from the Ministry for Human and Minority Rights EUR 12,000 in 2014 and EUR 12,000 in 2015	Administrative capacities strengthened by employing two employees, one in 2014 and another in 2015	Increased efficiency in design and implementation of policies for REA population

**3.10.2. Recommendation: Ensure continuous registration of the displaced persons, as well as their equal access to economic and social rights. Particular focus should be given to improve the living conditions of the displaced persons.**

**CURRENT SITUATION**

After the outbreak of armed conflicts on the territory of former Yugoslavia, Montenegro has provided shelter and for two decades cares for displaced persons (DP) from the former Yugoslav republics and internally displaced persons (IDPs) from Kosovo. Care for this population is regulated by documents that define this topic. According to data from the month of April 2013, in Montenegro are residing 2689 DS from the former Yugoslav republics and 8233 IDPs from Kosovo.

Aimed at permanent and sustainable resolving of the issue of displaced persons from ex-Yugoslav republics and the internally displaced from Kosovo, Montenegro has undertaken the necessary measures, in cooperation with the European Commission and UNHCR, to resolve the status of those persons, in a durable and sustainable manner, through recognising the status of foreigners with permanent residence, in which respect the Law on Amendments to the Law on Foreigners was adopted and has been applicable as of 7 November 2009. This law envisages that displaced and internally displaced persons may be approved permanent residence if they are recorded as displaced or internally displaced persons on 7 November 2009.

These persons, according to the legal provisions, unlike other foreigners in Montenegro, are exercising the right in favourable conditions to permanent residence in Montenegro. Privileged status of those persons is reflected in the fact that they, unlike other foreigners, are free from the obligation to provide proof of provided funds for subsistence, accommodation and health insurance, which is the legal obligation for all other foreigners when applying for permanent residence. Hence, these persons are obliged to provide only six documents: copy of a valid travel document, certificate from the Asylum Office that

he/she is in the record of displaced persons, i.e. the certificate of the Refugee Care and Support Office that the person is entered into the records of internally displaced persons; copy of ID of the displaced or internally displaced person; birth certificate; citizenship certificate and proof that criminal procedure is not conducted against that person in Montenegro.

In addition, those persons are provided with legal possibility to, in a case of not possessing the valid passport of the state of origin, exercise the right to temporary residence up to three years, which is at the same time the deadline within which, if they obtain a valid passport, they exercise the right to approval of permanent residence.

As foreigners with approved permanent residence these persons enjoy the following rights: right to work and employment; right to education and vocational training; right to recognition of diploma and certificate; right to social assistance, health and pension insurance; right to tax alleviations; the right to access to market of goods and services; freedom of association and membership in organisations which advocate the interests of workers and employers. In this sense, their full integration in Montenegro will be achieved when the relevant laws are aligned with the Law on Foreigners and implemented in entirety. Until gaining the status of a foreigner with a permanent residence in line with the Law on Foreigners, those persons exercise rights as Montenegrin citizens in line with the Decree on the manner of exercising rights for displaced persons from former Yugoslav Republics and IDPs from Kosovo residing in Montenegro.

Law on Amendments of the Law on Foreigners which is adopted at the end of May 2013 time limit for submission the requests for displaced and internally displaced persons for permanent residence and temporary residence was extended until 31 December 2013.

Refugee Care and Support office continuously implements measures to identify the most vulnerable people in need of assistance in obtaining documents from the country of origin (passport, birth certificate, certificate of citizenship) and administrative fees for the issuance of these documents, and for that reason organizes group visits to Serbia and Kosovo. So far 15 group visits to Serbia and Kosovo have been organized, which included 588 internally displaced persons from Podgorica, Berane, Ulcinj and Kotor. New group visits to Kosovo and Serbia are planned.

Informational campaign about the necessity and obligation to apply for status of a foreigner with permanent residence on Montenegro for displaced and internally displaced persons is implemented continuously. Campaigns were organized in almost all Montenegrin municipalities. Informational campaigns will continue in future, bearing in mind that the deadline for submission of requests for a status of foreigner with permanent residence will be extended.

Since displacement is a problem of national, social and international importance, the Government of Montenegro at its session in July 2011 adopted the Strategy for Durable Solution to the Issue of Displaced and Internally Displaced Persons, with special emphasis to the Konik site, with the Action plan. The Strategy is adopted for the period from August 2011 until December 2015, and action plans for its implementation will be adopted for one-year period.

Aimed at monitoring the implementation of the Strategy and coordination of the activities taken by public administration bodies, authorities and other competent institutions, the Government of Montenegro set up the Coordination Committee for monitoring the implementation of the Strategy for Durable Solution to the Issue of Displaced and Internally Displaced Persons with special emphasis on the Konik site, in October 2011.

Since the Strategy defined two solutions (local integration and voluntary return) for permanent resolution of IDs and IDPs it is necessary to enable IDs and IDPs, along with solving their legal status and accommodation, with an access to: social welfare, education, healthcare and employment.

**Welfare:** The Government will continue to ensure that the IDP/DPs and foreigners with permanent residence or temporary residence have full access to the welfare system in accordance with the Montenegrin legislation. The Law on Social and Child Welfare was adopted 28 May 2013 based on which bylaws will be made, that will define exercise of rights (rulebooks).

**Education:** The Government will continue to ensure that the IDPs and DPs and foreigners with permanent or temporary residence have equal access to state-

owned kindergartens for children, elementary and secondary schools and state universities as the citizens of Montenegro. Programs and activities aimed at increasing of the level of social integration and attendance in schools, especially among the children of the IDPs RAE population will be initiated. Programs for vocational trainings will be offered to the illiterate adolescents and adults who need training in order to improve their odds at the labour market.

Healthcare: The Government aims at stimulating involvement of the DPs, IDPs and foreigners with permanent or temporary residence into the national healthcare system, through the informational campaigns whereby the awareness of the DPs and IDPs on rights concerning access to healthcare system would be raised when it comes to the rights regarding access to the healthcare system and through ensuring marking of these persons as a target group in healthcare campaigns.

Employment: The Government aims at stimulating employment and self-employment of the DPs and IDPs and foreigners with permanent or temporary residence. In order to support the economic advancement of the displaced active workforce, the programs of additional educational and acquiring of skills will be initiated pursuant to the Law on Employment and exercise rights from Insurance of Unemployment.

Accommodation: Adequate housing is the key element to integration. From the IPA funds and through the regional initiative, international donations and own sources, the Government will provide for housing for the families considered to be vulnerable under the UNHCR criteria, living below the housing standards (Konik I and II, informal collective centres and temporary settlements). Contribution of Montenegro will be primarily in the sense of allocation of land and provision for primary infrastructure, as well as provision of financial support. Housing will be provided through implementation of project "Identifying durable solutions for (I)DPs and residents of Konik Camp" phase I and Regional housing programme "Sarajevo Process – Belgrade Imitative".

No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
3.10.2.1	Carry out an analysis of legislation in this field, especially from the aspect of comparative experiences, envisaged by the Law on Foreigners regarding regulation of permanent residence of children born in Montenegro whose one or both parents are foreign nationals with permanent residence in Montenegro Amend the Law on Foreigners in line with the recommendations from the Analysis.	Ministry of Interior, in cooperation with UNHCR	December 2013 December 2014	Budget EUR 607.00 Expert support UNHCR	Analysis with accompanying recommendations adopted Law on Foreigners adopted	Semi-annual reports on the approval process for permanent residence, Statistical data on the number of complaints filed by the applicants, Statistical data on the number of complaints filed before the Administrative Court by the applicants, Number of children who regulated their status in accordance with the new Law on Foreigners

3.10.2.2	Continue with searching for a solution for providing assistance to the financially most vulnerable displaced and internally displaced persons in obtaining personal documents within the Regional Technical Working Group for Documentation (Sarajevo process)	Ministry of Interior Ministry of Labour and Social Welfare Refugee Care and Support Office DEU UNHCR	December 2013 and December 2014	Budget – Ministry of Interior – costs refer to organization of meetings of the Regional Technical Group – regular costs, UNHCR budget EUR 243,356 for 2013	Number of meetings held by of the Regional Technical Working Group  Number of persons who have obtained necessary documents	Number of persons who have obtained necessary documents  Number of persons who submitted requests to regulate their status
3.10.2.3	Continue with entries or subsequently make entries into civil registers of birth, through the administrative procedure conducted by municipal units of the Ministry of Interior	Ministry of Interior	December 2013  December 2014	Regular budgetary funds of the Ministry of Interior	Number of submitted and solved requests  Report on the number of submitted and solved requests	Increased number of registered persons
3.10.2.4	Identify extremely vulnerable families that cannot obtain documents and assist them in obtaining documents	Ministry of Labour and Social Welfare Refugee Care and Support Office Ministry of Interior UNHCR	December 2013	Budget – Ministry of Labour and Social Welfare through the budget of institutions for social and children protection (institutions within their regular activities and	Number of extremely vulnerable families and number of persons with disability identified Number of families and number of persons with disability to which assistance is provided in obtaining documents	Increased number of persons who provided necessary documents

				affairs, carry out field visits)		
3.10.2.5	Carry out targeted information campaigns for DP/IDP population on conditions to exercise rights in line with the Law on Social and Child Protection and other rights (organize field visits, focus groups...)	Ministry of Labour and Social Welfare NGO Refugee Care and Support Office UNHCR	Second, third, fourth quarter of 2013  Second, third, fourth quarter of 2014.	No funds needed (information campaigns implemented within information campaigns for the Regional housing project – Objective 6)	Number of implemented campaigns Number of organized forums	Increases level of information of DP/IDP population on conditions to exercise rights
3.10.2.6	Amend the Law on Higher Education in order to adjust it to the Law on Foreigners	Ministry of Education UNHCR DEU	By the end of 2013	Budget EUR 33,390 (working group of 6 persons, effective work for 3 months – draft of law EUR 14,580; public debate EUR 3,810; work of parliamentary committees EUR 15,000)	The Law on Higher Education provides effective access to higher education for person having the status of foreigner (Aligned with the Directive on education of migrant workers children 77/486/EEC of 25 July 1999)	Provided accessibility of education to foreigners
3.10.2.7	Amend the Law on education in order for persons having the status of foreigners being able to teach, in order to align with article 45.2 of the TFEU.	Ministry of Education	End of 2017	Regular budget	Law on education aligned with article 45.2 of the TFEU.	
3.10.2.8	Continuously monitor attendance	Ministry of	Continuous	Budget EUR	Increased number of	Number of children of displaced



	of classes by children of the displaced and internally displaced persons	Education	activity	810.00 at the annual level (one person effective work one month)	children attending the classes compared to the previous school year.	and internally displaced persons.
3.10.2.9	Develop and implement a preparatory programme for children aged 5-6 years who are not involved in the pre-school education and train the staff	Ministry of Education	December 2013 December 2014 December 2015	Budget EUR 12,150 (2013) (Drafting programs of preparation EUR 4,500; consultative one-day meetings, 60 persons – EUR 650, Staff training EUR 6,000 at the annual level for organization of a two-day seminar for 25 participants) Budget for 2014 and 2015 – EUR 6,650	Developed elementary school preparatory programme for children aged 5 to 6 who are not involved in the pre-school education. Trained staff.	Number of trained teachers. Number of children included in the preparatory programme.
3.10.2.10	Organize educational-informational workshops for the general DP/IDP population on the possibilities to use healthcare services and preserve health.	Ministry of Health Institute for Public Health Public health	December 2013 December 2014 December	Regular budget EUR 1,500 for organizing three workshops at	Number of education – informational workshops. Number and type of published educational	Increased use of counselling services in the support centre.

	Prepare and distribute educational material from the field of healthcare and healthcare needs of the DP/IDP population.	care institutions NGO	2015 December 2016	the annual level Additional budgetary funds, donor funds, EUR 3,000 at the annual level for preparation of the educational material	material.	
3.10.2.11	Produce informational and educational brochures and distribute them to women, youth and children, informing them about the right to health and importance of prevention and preservation of health, education on preservation of reproductive health, optimal time for marriage, protection from unwanted pregnancy and behaviour during pregnancy and the like.	Ministry of Health, Institute for Public Health, Public health care institutions (Clinical Centre of Montenegro, general hospitals, medical centres)	December 2013  December 2014	Additional budgetary funds, donor funds, EUR 3,000, at the annual level for preparation of the educational material	Number of DP/IDP children aged up to 15 years who have chosen general practitioner – paediatrician, doctor for adults, number of women aged 15-65 years who have chosen general practitioner – gynaecologist, as well as number of children who have undergone compulsory vaccination.	Increased number of vaccinated children and children with chosen paediatrician, increased number of persons with chosen general practitioner for adults, increased number of women with chosen gynaecologist.
3.10.2.12	Involve IDPs and DPs population in active employment policy programmes (inform IDPs and DPs population on opportunities and requirements for employment; career guidance; education and training of adults, - retraining, additional training, public works	Employment Agency of Montenegro;	First quarter of 2014  First quarter of 2015	Budget  Donor funds required for implementation of training programmes as a part of active	Number of IDPs and DPs covered by active employment policy programmes per defined measures	Increased number of IDPs and DPs members with provided access to economic rights

	etc.)			employment policy		
3.10.2.13	Organise round tables and meetings with employers with a view to raising employers' awareness on the right to work and employment pertaining to displaced and internally displaced persons as well as to persons with the status of foreigner	Ministry of Labour and Social Welfare in cooperation with the Employment Agency of Montenegro Refugee Care and Support Office UNHCR	October 2013  From 2014 at least twice a year	Budget  Donor's funds required  Ca. EUR 10,000	Number of round tables and meetings held Number of employers covered by round tables and meetings	Increased number of employees involved in active employment policy
3.10.2.14	Organise informational campaigns with a view to raising awareness among displaced and internally displaced persons on rights arising from unemployment	Ministry of Labour and Social Welfare Employment Agency of Montenegro Refugee Care and Support Office NGO	October quarter 2013 From 2014 at least twice a year	Budget  Donor's funds required  EUR 10,000	Number of campaigns carried out Number of gatherings organized	Increased number of persons in the records of the Employment Agency for the purpose of exercising rights arising from unemployment
3.10.2.15	Identify locations for construction of residence buildings in municipalities in Montenegro	Local self-government units Ministry of Sustainable Development and Tourism	December 2013  December 2014	No funds required	Number of identified locations in municipalities	

		Ministry of Labour and Social Welfare				
3.10.2.16	<p>Implementation of IPA 2011 project “Identifying durable solutions for (I)DPs and residents of Konik Camp” –</p> <p>Activity 1: Urban development and construction of residential objects;  Activity 2: Social integration;  Activity 3: Voluntary return;  Activity 4: Technical assistance</p>	Ministry of Labour and Social Welfare, the Capital of Podgorica	Start of construction December 2013	<p>Total project value EUR 3,000,000.00 (For construction of 90 new residential objects; funds provided within IPA 2011 “Identifying durable solutions for (I)DPs and residents of Konik Camp” EUR 1,700.00 Contribution of budget EUR 500,000 resources provided</p>	<p>Built 90 new residential objects for internally displaced persons members of RAE population from Konik Camp 1 and 2 and for local vulnerable population</p>	<p>Shutting down Konik Camp 2</p> <p>Significant increase of children included in primary educational system or who benefit from adequately directed education services</p> <p>Developed social and cultural skills of internally displaced persons of RAE population</p> <p>Increased number of internally displaced persons of RAE population included in professional training in order to provide them with better employment opportunities</p> <p>Solved status of larger number of internally displaced persons of RAE population</p> <p>Created conditions for voluntary return of internally displaced persons of RAE population</p>
3.10.2.17	Provide conditions for construction of housing units for 1.177 families in collective settlements, including irregular settlement and Vrela Ribnička (Regional project of Belgrade Initiative)	Ministry of Labour and Social Welfare (International donors, CEB,	2013, 2014, 2015 and 2016	Total amount of funds required: EUR 27,696 mil Contribution of Montenegro 15%, namely	Number of housing units constructed	Increased number of families with housing issue solved

	Sarajevo process through: Construction of 907 housing units; Delivery of construction material for 120 housing units; Construction of 60 prefabricated houses; Construction of 90 housing units in the Elderly Home in Pljevlja.	Government) Local self-governments		EUR 4,154 mil Donations Ca. EUR 23,542 mil		
3.10.2.18	Carry out informational campaigns on exercising rights within the Regional Housing Project	Ministry of Labour and Social Welfare Refugee Care and Support Office UNHCR	Until the end of 2013 and 2014	Donor funds – Informational campaign in Montenegro will be financed by the UNHCR funds in the amount of EUR 15,500 (in 2013) and EUR 15,500 (in 2014)	Beneficiaries of the Regional Housing Project informed on the implementation stages	Number of families that applied for solving of the housing issue

### 3.11 Recommendation: Ensure adequate prosecution of hate crime.

#### CURRENT STATE

By the Proposal for the Law on Amendments to the Criminal Code the alignment of standards in this area continued. In the general section of the Criminal Code mandatory aggravating circumstances are introduced for offenses motivated by hatred. Starting from the provisions of Council Framework Decision 2008/913/JHA of 28 December 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, the Convention on the Elimination of All Forms of Discrimination against Women - CEDAW and recommendations of ODIHR, the goal of the new provisions of Article 42a is to provide stringent punishment, and therefore increased legal protection in relation to certain vulnerable social groups whose members are victims of various crimes which are committed out of hate because of this affiliation. Although it is already provided by Article 42 of the Criminal Code under the general rules on sentencing that the court's sentencing will take into account the motives for the offense, and therefore hatred, that provision is general and it neither refers explicitly to hatred as an aggravating circumstance (on these grounds), nor prescribes it as a mandatory aggravating circumstance as it is done under Article 42a of the Criminal Code.

As for hate crimes, conducting investigation does not depend on the victim filing charges. Deliberate instigation to violence and hate will be punishable through incitement as a type of complicity. The Criminal Code prescribes that a person who deliberately incites the other person to commit a crime will be punished as if

committing it by themselves. The criminal sanctions can be applied to both a natural and a legal person. A legal person is responsible for criminal offences prescribed by the Criminal Code by the principle of accountability for a criminal offence of a responsible person in that legal person, who, acting on behalf of a legal person within their competences, committed a criminal offence with the aim of gaining a benefit for that legal person. An accountability of a legal person also exists when acting of that responsible person was in opposition to the business policy and instructions of the legal person. The Criminal Code prescribes the criminal offence of genocide (426), crime against humanity (427) and war crime against civilians (428).

No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result	Indicator of impact
3.11.1	Amend the Criminal Code in the part of prescribing: offense of violation of equality (Article 159); supplement in a way that this offence can be committed if due to their sexual orientation or gender identity human rights or freedoms of any person are limited or denied,  referring to prescribing of special circumstances for weighing up a sentence for a hate crime	MJ, Parliament	September 2013	Budget	Law on Amendments to the Criminal Code adopted in line with Data on prosecuted hate crimes	Law on Amendments to the Criminal Code aligned with the provisions of Council Framework Decision 2008/913/JHA of 28 December 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law - provisions of the Convention on the Elimination of All Forms of Discrimination against Women - CEDAW and recommendations of ODIHR EC Report

**3.12 Recommendation: Ensure the alignment with the acquis in the area of protection of personal data and allow for assessment through the preparation of the relevant transposition tables; ensure sufficient financial and human resources to the Data Protection Agency.**

**CURRENT SITUATION**

Montenegro amended the Personal Data Protection Law in July 2012. In the process of drafting the proposal for amendments to the Law, representatives of the EU Twinning Project on personal data protection provided special contribution, in terms of ensuring compliance with the Directive. Their conclusion was that these amendments provided for full compliance of the Personal Data Protection Law with the EU Directive 95/46/EC.

By introducing a new provision in Article 27 of the Law, the controller of a personal data filing system that employs 10 staff members who process personal data is required to designate, following the establishment of an automatic personal data filing system, a person responsible for personal data protection in accordance with Article 20 of the EU Directive 95/46/EC to strengthen the institute of prior checking.

Article 13 of the Law defines special categories of personal data which can only be processed in the following cases: with the explicit consent of the data subject; when the processing of personal data is necessary for the purpose of employment, in accordance with the law regulating labour relations, provided that adequate protection measures have been prescribed; when the processing of personal data is necessary for the discovery, preventive medicine and medical diagnosis or treatment, or for the purpose of managing health services, provided that those data are being processed by a health worker or other person bound by a duty of confidentiality; when the interest of protecting the lives or other vital interests of the data subject or another person so require, provided that the person is incapable of granting personal consent, as well as in other cases prescribed by law; when the processing relates to the data which are manifestly made public by the data subject or if the processing is necessary for the exercise or protection of legal interests of that person before a court of law or other authorities; when the processing of personal data is conducted as part of a legitimate activity of a non-governmental organisation, i.e. association or other non-profit organisation with political, philosophical, religious or trade union goals, provided that the data relate only to members of that organizations or persons who maintain constant contact with that organization in relation to the purpose of its activity or unless the data are published without the consent of data subjects.

Special categories of personal data are specially designated and protected in order to prevent unauthorized access to such data.

The method of designating and protecting the data referred to in paragraph 2 of this Article is established by the ministry in charge of public administration affairs.

Article 14 of the Law prescribes that the processing of the personal data that refer to criminal offenses, criminal sanctions or misdemeanour penalties or security measures may only be conducted by, or under the supervision of, the competent authority and provided that measures for the protection of personal data have been ensured in accordance with the law. Before processing personal data for the purposes of direct marketing, the data subject must be given an opportunity to oppose the processing of the data. If the data referred to in Article 13 of this law are used for the purposes of direct marketing, it is necessary to ensure the consent of the data subjects.

The Agency verifies, during the monitoring process, if the aforesaid measures have been implemented in accordance with the Law.

The Personal Data Protection Law provides the Agency with the powers and mechanisms to conduct all kinds of controls of the parties processing personal data. The capacities of the Personal Data Protection Agency are still limited in terms of human resources, mechanisms for investigation and inspection and need to be strengthened through the employment of additional staff for inspection work and their vocational training. Additional funds need to be allocated for this purpose from the budget of Montenegro and, if possible, from the EU funds.

Article 24 of the Law requires the controller of the personal data filing system and the processor of personal data to provide the technical, human resources and organizational means to protect personal data from loss, destruction, unauthorized access, change, publication and abuse. The measures for the protection of personal data referred to in paragraph 1 of this article must correspond, by their nature and character, with the data that are being processed, while taking into account state-of-the-art technology and cost of implementation. In case of electronic processing of personal data, the controller of the personal data filing system is required to ensure that the information system automatically keeps records of all users of personal data, the data being processed, the legal grounds for the use of data, file number, time of login and log off and, if necessary, the date by which the user data are not accessible to the data subject. The controller of a personal data filing system is required to stipulate which employees have access to which personal data, as well as the categories of the data that can be made available for use and under what circumstances. The controller of a personal data filing system shall allow access to the personal data filing system and keep records of the users of personal data according to its own act.

A register of personal data filing system is being established and will become operational in the first months of 2013. By establishing the Register, the Agency will be in a position to monitor, more effectively, respect for the protection of personal data and take steps to improve that protection.

Conditions are being met for the Agency to apply effectively the institute of prior checking. Special attention should be focused on providing additional trainings for the Agency staff on the issue of prior checking.

In addition to the statement that the Personal Data Protection Law is harmonized with the EU Directive 95/46/EC, it should be noted that a number of other laws still need to be harmonized with the EU Directives 45/96, 2002/58, 2006/24 and 2009/136.

The measures set out in the Action Plan are proposed based on an overview of the situation in the area of personal data protection.

Amendments to the Personal Data Protection Law were accompanied by amendments to the Law on Classified Data and adoption of the new Law on Free Access to Information. All three laws have been harmonized. The Law on Free Access to Information gives new powers to the Personal Data Protection Agency, including acting as an authority of second instance, deciding on the orders of first-instance bodies. It provides a test of the harmful effects of disclosure of information. Furthermore, it prescribes the duty of proactive access to information in the possession of the authorities. The aforesaid provisions will enable citizens to access information more easily and, on the other hand, introduce the requirements on the authorities to ensure more transparent work of government bodies.

Parliament of Montenegro adopted the new Law on Free Access to Information in July 2012. The Law is harmonized with the Convention on access to official documents and the Personal Data Protection Law and Law on Information Confidentiality.

The main novelties set out in the new Law on Free Access to Information include: proactive access to information, which promotes the established public interest in publishing information and enables simultaneous access to an indefinite number of persons, manifested by requiring the authorities to publish at their websites documents within their remit, as stipulated by Article 12 paragraph 1 of the Law on Free Access to Information; establishment of a single IT system for access to information for the purpose of monitoring the situation with access to information, which will be administered by the Agency for Personal Data Protection and Access to Information; establishment of a single second-instance authority, as an independent oversight body with special powers that ensure efficiency for the purpose of fulfilling its competences (the Council of the oversight body is required to decide on the merits of appeals); access to public registers and records, which must be made accessible by general principle, is improved by enabling direct access *by verbal request*, as there is no need to test the harmful effects of their disclosure.

Bearing in mind that the Law on Personal Data Protection is considerably aligned with Directive 95/46, in the forthcoming period it is necessary to take new directives into consideration (Directives 45/69, 2002/58, 2006/24, 2009/36 and others) in the field of personal data protection, prepare new analyses of alignment of the Law on Personal Data Protection and in accordance with the results of the analyses define further measures for alignment of relevant national regulations with these directives. In addition, the analysis will cover assessment of alignment of the Law on Personal Data Protection with Article 9 of the Directive 95/46 and determine whether this provision will be subject of amendments to the Law on Media or the Law on Personal Data Protection. In addition, we are of the opinion that provision of Article 43 of the Constitution is not contrary to provisions of Article 6 item b) of the Directive 95/46/EC, as well as that Article 43 should not be amended at this point of time, since it could be amended at the end of the negotiating process if necessary.

No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of	Indicator of result	Indicator of impact
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				<b>financing</b>		
3.12.1	Drafting Analysis on alignment of the Law on Personal Data Protection with Directive 45/96/EU, Directives 45/95, 2002/58, 2006/24, 2009/136 and other relevant directives in this field.	Ministry of Interior in cooperation with the Agency for Personal Data Protection and Free Access to Information and with the engagement of a foreign expert by TAIEX	Fourth quarter of 2015	Budget EUR 16,200 (working group of 5 persons, effective work for 4 months, TAIEX EUR 2,700 – one expert for five working days)	Prepared analysis with the proposal of amendments to the Law on Personal Data Protection	
3.12.2	Amendments to the Law on Personal Data Protection based on the result of the analysis	Ministry of Interior in cooperation with the Agency for Personal Data Protection and Free Access to Information and with the engagement of a foreign expert by TAIEX	Fourth quarter of 2016	Budget EUR 23,260	Adopted amendments of the Law on Personal Data Protection	Law harmonized with the acquis in the field of Personal Data Protection
3.12.3	Drafting Analysis on alignment of national laws dealing with mechanisms for personal data protection in various fields of the Law on Personal Data Protection with Directive 45/96/EU, Directives 45/95, 2002/58, 2006/24, 2009/136 and other relevant directives in this field.	Ministry of Interior in cooperation with the Agency for Personal Data	Second quarter of 2017	Budget EUR 16,200 (working group of 5 persons, effective work	Drafted analysis with proposal for amendments to relevant laws	National legislation harmonized with the acquis in the field of personal data protection

		Protection and Free Access to Information and with the engagement of a foreign expert by TAIEX		for 4 months, TAIEX EUR 2,700 – one expert five working days		
3.12.4	Training of public servants, representatives of the media and NGOs on the Law on Personal Data Protection and judgements of the European Court of Human Rights – Article 8 of the European Convention regarding the protection of personal data (intended for officers who apply the Law on Personal Data Protection, representatives of electronic and print media and representatives of the NGO sector)	Agency for Personal Data Protection and Free Access to Information Ministry of Interior Human Resource Administration With expert support - TAIEX	June-December 2013 January-December 2014 January-December 2015 January-December 2016	Regular budgetary funds EUR 1,000 Foreign donation required	Number and type of training Number and structure of participants	Decreased number of complaints for personal data protection
3.12.5	Strengthening capacities of the Agency through full recruitment of additional necessary staff according to the Rulebook on Job Descriptions and/or competences of the Agency	Agency for Personal Data Protection and Free Access to Information Government and Parliament of Montenegro	2014 - one new employee 2015 – one new employee	Additional budgetary funding required in 2014 and in 2015 for each employee 2 x EUR 11,400.00	Number of newly employed officers by years	
3.12.6	Training of employees of the Agency for Personal Data Protection and Free Access to Information through thematic training: - previous controls	Agency for Personal Data Protection and Free Access to	June – December 2013 January –	Regular budgetary funds EUR 1,000	Number and types of training Number and composition of	Assessment of work of the Agency from national and foreign reports

	<ul style="list-style-type: none"> <li>- more efficient sophisticated investigations</li> <li>- inspection controls</li> <li>- monitoring development of international standards in this area</li> </ul>	Information With expert support - TAIEX	December 2014 January – December 2015 January – December 2016	Foreign donation required	participants Report on the Agency's work with recommendations	
3.12.7	<p>Provide better awareness of citizens on the right to protection of personal data through:</p> <ul style="list-style-type: none"> <li>Public forums and seminars</li> <li>Publications</li> <li>Distribution of manuals for easier understanding and application of the right to protection of personal data</li> </ul>	Agency for Personal Data Protection and Free Access to Information and Ministry of Interior NGO	2014 and continuously	<p>Additional budgetary funding required EUR 2,000.00</p> <p>Foreign donation required EUR 15,000.00</p>	Number of forums and seminars, Number of publications.	

## COOPERATION WITH THE NGO

### CURRENT SITUATION

One of the forms of exercising the freedom of association is the formation of trade unions. Amendments to the Law on Representativeness of Trade Unions, which are planned for adoption in 2013, will promote the transparency of representativeness and the right to form new trade unions.

In modern societies, foundation of non-governmental organisations is an important element of exercising the freedom of association. The Parliament of Montenegro adopted the Law on Non-governmental Organisations (Official Gazette of Montenegro 39/11 of 4 August 2011), which has been in effect since 1 January 2012. The need to adopt the new law arose from the ratification of international documents, first and foremost, the European Convention on Human Rights, Montenegro's membership of the Council of Europe and the deficiencies noted in the implementation of previously applicable systemic law which had regulated the status, work and activities of non-governmental organisations. The Law on Non-governmental Organisations is in conformity with international standards and the case law of the European Court, as well as the international documents that regulate the issues that constitute the subject matter of this law. First and foremost, the harmonisation with the Convention on Human Rights of the Council of Europe, which Montenegro has ratified, as well as the Recommendation CM/Rec(2007)14 of the Committee of Ministers to Member States on the legal status of non-governmental organisations in Europe (adopted by the Committee of Ministers on 10 October 2007 at the 1006th meeting of Ministers' Deputies), which regulates the issues of the status, work and independence of NGOs and recommends that the member states be guided in their legislation, policies and practice by the minimum standards set out in this recommendation. The law has also been harmonised with Article 15 of the UN Convention on the Rights of the Child, in a way that the new law enables juveniles

(when they come to the age of 14) to be the founders of NGOs with the consent of their legal representative in accordance with the law. In addition to meeting the requirement of compliance with the ratified international documents, the new legislation is essentially focused on promoting good governance in organisations, increasing transparency of work of NGOs and improving the financing of NGOs from public funds.

In addition to the new Law on Non-governmental Organisations, the Government of Montenegro adopted two more, very important, regulations for cooperation of state authorities with NGOs, as well as the increased citizen participation in the decision-making process, namely: the Decree on Terms and Procedures for Cooperation between State Administration and Non-governmental Organisations (Official Gazette of Montenegro 07/12 of 30 January 2012) and the Decree on Terms and Procedures for Conduct of Public Hearing in Law Preparation (Official Gazette of Montenegro 02/12 of 24 February 2012). The Decree on Cooperation of State Authorities and NGOs prescribes the key forms of cooperation between the public and civil sector (information, consultations, involvement in the activities of working bodies) which are recognised in international documents, in particular the Code of Good Practice on Civil Participation in the Decision-Making Process, which the Council of Europe adopted in 2009. The Decree on the Conduct of Public Hearing provides the normative requirements for effective conduct of public consultations in the process of drafting laws and other acts and, in doing so, focuses on the strengthening of participatory democracy in the country, the importance of which was confirmed in Chapter 2 of the Lisbon Treaty.

In this manner, legal grounds have been established for the work of non-governmental organisations in the country, as well as cooperation between public authorities and the civil society. However, all the pieces of the secondary legislation required for proper implementation of the Law on NGOs, especially in terms of financing, have not been adopted. Since the implementation period of the 2009-2011 Strategy for Cooperation between the Government and NGOs and the Action Plan has expired, the Government has started drafting a new strategic document in order to create a stimulating environment for work and activism of nongovernmental organisations. To this end, the Ministry of Interior has established a working group and the adoption of a new strategy has been scheduled for the fourth quarter in the Government's Programme for this year. Furthermore, there are substantial opportunities for the improvement of other laws which directly or indirectly affect the functioning of the non-governmental sector in the country.

Laws and secondary legislation, as well as the internal procedures of relevant state authorities, contain no specific section dedicated to statistics and records in relation to nongovernmental organisations. Another major obstacle to better understanding the needs and functioning of NGOs in Montenegro is also the lack of official statistical data about the employees and volunteers, revenues (donations from domestic and foreign sources, commercial activities, membership fees, etc.) premises, technical equipment... This deficiency has resulted in difficulties in planning and considering the future direction of development of NGOs, as well as the support state authorities and local self-government bodies should provide to non-governmental organisations.

In terms of institutional mechanisms for cooperation between the Government and NGOs, there are currently two bodies: the Office for Cooperation and the Council for Cooperation between the Government and NGOs.

The Office for Cooperation was established in 2007. The mission of the office is to promote and coordinate the work of public authorities with NGOs based on the principles of partnership, transparency, accountability and exchange of information, to initiate and organize specific trainings for civil servants in relation to cooperation with NGOs, to cooperate with NGOs, coalitions and networks, international organisations and institutions in this area, while promoting the transparency of its work and without prejudice to the independence of NGOs. The Office is investing substantial efforts to strengthen cooperation between the government and the civil society and, in addition to the aforesaid regular activities, it has established the Secretariat of the Council for Cooperation between the Government and NGOs, which regularly performs the professional and administrative tasks for this body. A representative of the Office has been involved in the drafting of almost all regulations concerning NGOs and she coordinated the drafting of the first strategic document in this area. However, the Office is facing

substantial problems, which must be resolved in order to ensure its sustainability and efficiency. On the one hand, the Office has “modest” powers which arise from its status as an organisational unit of the General Secretariat, whereas, on the other hand, there are great expectations from local non-governmental organisations and international stakeholders as regards its work, which exceed its powers and capacities. Furthermore, the office still does not have a clear mission and position in the system. A great challenge for the Office is the insufficient number of staff in relation to the tasks and duties of the Office, as well as its institutional dependence (the Office is not a separate authority, but part of the General Secretariat of the Government), which results in a lack of a clear budget for its work and represents difficulties in introducing legislative initiatives.

On 15 April 2010, the Government of Montenegro adopted the Decision establishing the Council for Cooperation between the Government of Montenegro and Non-governmental Organisations (Official Gazette of Montenegro 28/10). The Council was established on 25 January 2011, comprising President and 24 members – representing the state and the non-governmental sector on an equal basis. The President of the Council is a government representative, while the deputy president is a representative of the non-governmental sector in this body. This authority represents an advisory body for the Government, which gives opinion on all the regulations concerning the work and activities of NGOs in the country, defines clear recommendations for promotion of cooperation between the Government and NGOs and encourages dialogue between the two sectors. The Council functions well, considering the circumstances in which this body operates. However, due to the growing importance attached by the Government to cooperation with the civil society, as well as the commitments arising from the association process and the new duties the Council assumes based on certain legal provisions (the Law on NGOs), the fact remains that this body will undertake an increasing number of duties in the future. In this context, the body requires strengthening in terms of human and technical capacities, as well as financial support from the government. It still uses the logistical support of the Office for Cooperation with NGOs, which is both uncertain and insufficient.

There are individuals in state authorities who have been designated as contact persons for cooperation with NGOs. At this moment, 54 contact persons have been designated at the level of state authorities. However, the work and activities of those contact persons are limited and do not produce proper results, because the contact persons change too frequently, which makes the establishment of effective communication with NGOs difficult. Furthermore, the contact persons for cooperation with NGOs do not have a clear job description or, to be more precise, cooperation with NGOs has just been added to their other responsibility, without prescribing in detail the content of the duties of those officers in that regard. This issue is directly associated with the incorporation of these duties (cooperation with NGOs) into the formal job descriptions for specific individuals in the rulebooks on job classification. Unfortunately, only a small number of authorities have formalized this job description through their general acts – the rulebooks. The existence of contact persons is very important for closer cooperation between state authorities and NGOs, which is why their capacities must be strengthened in the future.

**OBJECTIVE: IMPROVED LEGISLATIVE AND STRATEGIC FRAMEWORK FOR WORK AND ACTION OF NGO IN THE STATE**

No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result
1	Preparation and adoption of the Decree on composition, criteria for election and procedure of nomination the members of the Commission for Allocation of the Funds	Ministry of Finance	2013	MNE Budget	Decree on composition, criteria for election and procedure of nomination the members of the Commission adopted Public call to members of the Commission was launched on grounds of the Decree

	to NGO				Number of received applications Commission for Allocation of the Funds to NGO formed
2	Preparation and adoption of the Decree on more detailed criteria for assessment of projects, i.e. NGO programmes	Ministry of Finance	2013	MNE Budget	Decree on more detailed criteria for assessment of projects, i.e. NGO programmes was adopted Number of project assessed on grounds of the Decree Number of appeals of NGOs to the manner of assessment of projects on grounds of Decree
3	Elaboration and adoption of the Strategy of development of non-governmental sector in Montenegro	MI, Office for cooperation of the Government and NGO	2013	MNE Budget	Strategy of development of non-governmental sector in Montenegro adopted
4	Drafting of the Analysis of the legal framework for promotion of the socially responsible operations as a special form of cooperation of non-governmental and business sector with a view to providing financial sustainability of NGO	Ministry of Finance, NGO	2013-2014	International donors, NGO	Analysis of the legal framework prepared and adopted Proposals and recommendation for the concrete amendment to the relevant laws
5	Elaboration of the new and amendments to the existing legislation in accordance with the Analysis	Ministry of Finance , NGO	2014	MNE Budget	New and amendments to the existing legislation have been prepared in accordance with the Analysis Number of joint projects of NGO and business sector Number of donations of companies in money in areas of general interest (protection of environment, culture, fight against corruption ...)
6	Preparation of the new Law on Volunteerism with a view to creating promotion framework for civic activism and sustainability of civil society organizations	Ministry of Labour and Social Welfare, NGO	2014	International donors, NGO	Law on Volunteerism adopted Number of volunteers was increased in state, business and non-governmental sector
7	Elaboration of Analysis on necessary statistics related to the work of NGO and manner of their introduction into official statistics system (for consolidation of important data on sector: number of	Employment Office, Tax Administration, Statistical Office, NGO	2014	International donors, NGO	Analysis on necessary statistics related to the work of NGO was prepared and adopted with the concrete recommendations on type of necessary data and manner of their introduction into the official statistics system

	employees, number of volunteers, financial revenues of NGO, premises...)				
8	Amendments to the laws/secondary legislation and internal procedures in accordance with the Analysis on necessary statistics related to the work of NGO and manner of their introduction into official statistics system	Government, Statistical Office, state authorities, NGO	2014-2015	International donors, NGO, MNE Budget	Amendments to the laws/secondary legislation and internal procedures in accordance with the Analysis adopted Availability of precise data on NGO in relevant bodies Availability of consolidated data on NGO in internet presentation of the Office for Cooperation of the Government and NGO
<b>OBJECTIVE: ENHANCED INSTITUTIONAL FRAMEWORK FOR COOPERATION WITH THE CIVIL SOCIETY</b>					
No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result
9	Establishment of Commission for allocation of funds for NGO programmes and projects	Government of MNE	2013	Budget	Decision on establishment of the Commission issued Members of the Commission signed the statement on conflict of interest
10	Strengthening the capacities of members of the Commission for allocation of funds for NGO programmes and projects through trainings on application of legislation in this field	International donors, NGO, Government of MNE	2013 continuously	Budget Expert support - TAIEX International donors, NGO	Number of trainings for members of the Commission on manner of application of the Decree on closer criteria for project assessment, i.e. NGO programmes Number of trainings for members of the Commission on methodology of work of professional evaluators of the project
11	Preparation of analysis for defining the status and competences of the Office for cooperation with NGO	General Secretariat, Office, NGO, MI	2013	Donor funds, NGO,	Analysis was prepared and adopted with concrete proposals relating to the scope and position of the Office, Position and necessary number of employees
12	Increase in number of employees in the Office for cooperation with NGO in line with the prepared analysis	Government of MNE, General Secretariat,	2014	MNE Budget	Increased number of employees in line with the recommendations from the analysis

13	Preparation of needs assessment regarding the training for the employees in the Office for Cooperation with NGO	Office, NGO, HRA	2014	Budget Expert support - TAIEX	Needs assessment regarding the training for the employees in the Office prepared
14	Strengthening of capacities of the employed in the Office	HRA, NGO, international organisations	Continuously	MNE Budget, donors, TAIEX	Number of trainings Better results of employees after trainings Increased satisfaction of NGO with the work of the Office
15	Redesigning of web site for the Office with comprehensive info for NGO and their regular update	Office, Ministry for Information Society	2014-2015	MNE Budget, Donations	Web site redesigned Site regularly updated
16	Organisation of visits and exchange of knowledge for members of the Council for cooperation with the representatives of similar bodies in the region	General Secretariat, NGO, IO	continuously	MNE Budget, Donations	Number of meetings of members of the Council from countries from the region and the EU
<b>OBJECTIVE: STRENGTHENING OF ADMINISTRATIVE CAPACITIES FOR COOPERATION WITH CIVIL SOCIETY</b>					
No.	Measure / Activity	Responsible authority	Deadline	Required funds / Source of financing	Indicator of result
17	Creation of databases on NGO projects supported from public funds at local and national level	Office for cooperation with NGO, NGO, Union of Municipalities, Commission for Allocation of Funds to NGO	2014	MNE Budget Budget of local self-government units Donations	Databases created and available on web site of the Office for Cooperation of the Government and NGO
18	Creation of databases on representatives of non-governmental sector included in the work of working groups formed by the state authorities	Office for cooperation with NGO, state authorities, NGO	2014	MNE Budget	Databases created and available on web site of the Office for Cooperation between Government and NGO
19	Preparation of amendments to the Rulebook on organization and job	Government, state	2014	MNE Budget	Number of adopted amendments to the Rulebook on organisation and job description of state authorities



	description of state authorities (with a view to defining job descriptions of contact persons for cooperation with NGO)	authorities			
20	Preparation of training programmes for contact persons for cooperation of state authorities with NGO	Office for cooperation with NGO, NGO, HRA	2014	International donors, NGO	Training programme prepared for contact persons
21	Organisation of trainings for contact persons for cooperation of state authorities and NGO	HRA, NGO, Office for Cooperation	2014 Continuous	MNE Budget, international donors, NGO	Number of trainings for contact persons Number of participants in trainings Increased satisfaction of NGO with the work of contact persons (surveys)