

14 June 2011

ENGLISH only



Permanent Mission of Montenegro to the UN, OSCE and other International
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No: 421 -2/2011

The Permanent Mission of Montenegro to the Organization for Security and Cooperation in Europe (OSCE) presents its compliments to all Permanent Missions and Delegations to the OSCE and to the Conflict Prevention Centre and, in accordance with the decision 2/09 of the Forum for Security Co-operation, has the honour to enclose herewith the reply of Montenegro to the OSCE Questionnaire on the Code of Conduct on Politico-Military Aspects of Security for 2011.

The Permanent Mission of Montenegro to the Organization for Security and Cooperation in Europe (OSCE) avails itself of this opportunity to renew to all Permanent Missions/Delegations to the OSCE and to the Conflict Prevention Centre assurances of its highest consideration. *DR*

Vienna, 13 June 2011



To: All permanent Missions/Delegations to the OSCE
Conflict Prevention Centre
V i e n n a

QUESTIONNAIRE ON THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY

Section I: Inter-State elements

1. Account of measures to prevent and combat terrorism

1.1 To which agreements and arrangements (universal, regional, subregional and bilateral) related to preventing and combating terrorism is your State a party?

- For international-legal instruments in the field of preventing and combating terrorism and cooperation in the fight against crime, Montenegro has deposited its instrument of succession to the following conventions:

- **Conventions whose designated depository is the Secretary General of the United Nations:**

1. United Nations Convention against Transnational Organized Crime;
2. International Convention for the Suppression of the Financing of Terrorism;
3. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;
4. International Convention for the Suppression of Terrorist Bombings;
5. International Convention Against the Taking of Hostages;
6. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;
7. International Convention for the Suppression of Acts of Nuclear Terrorism, **succession to the signature**;

- **Conventions whose designated depository is the Council of Europe:**

1. European Convention on the Suppression of Terrorism;
2. Council of Europe Convention on the Prevention of Terrorism;
3. Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

- **Conventions whose designated depository is the International Maritime Organisation:**
 1. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA 1988);
 2. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (SUA PROT 1988);
- **Conventions whose designated depositories are individual states:**
 1. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970;
 2. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988,
 3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1970.¹

Montenegro has assumed obligations arising from agreements signed between the SRY and the subsequent State Union of Serbia and Montenegro and:

1. the Republic of Greece on cooperation in the fight against organized crime, illegal trafficking in drugs and psychotropic substances, terrorism, and other severe criminal;
2. the Republic of Bulgaria on cooperation in the suppression of illegal trafficking in narcotic drugs and psychotropic substances, international terrorism and other forms of international criminal activities;
3. the Republic of Croatia on cooperation in the suppression of illegal trafficking in narcotic drugs and psychotropic substances, international terrorism and other forms of international criminal activities;
4. The Montenegrin Ministry of Interior and the Republic of Italy and the Republic of Albania Memorandum of Understanding that, inter alia, envisages cooperation in the fight against international terrorism.
5. acceptance and implementation of the Berlin Declaration as of 10 July 2002;
6. implementation of the necessary activities related to red notices, blue notices and other official actions of the INTERPOL with

¹ The depositories of these three international instruments are the United Kingdom, the Russian Federation and the United States of America. Montenegro deposited its instrument of succession with the Government of the United Kingdom, after which the Foreign Office informed the Montenegrin Ministry of Foreign Affairs that other members and depositories would be informed about the given legal transaction.

- regard to persons for whom there is a reasonable doubt that they have incited, participated or committed terrorist activities; and
7. the Republic of Austria on police cooperation.

Administration for the Prevention of Money Laundering and Terrorism Financing, as Montenegro's Financial Intelligence Unit, signed agreements on cooperation in exchange of financial intelligence data with Financial Intelligence Units (FIU) of the following states:

- Agreement on Cooperation with FIU of Serbia (signed on 16 April 2004);
- Agreement on Cooperation with FIU of Albania (signed on 03 June 2004);
- Agreement on Cooperation with FIU of Bosnia and Hercegovina (signed on 19 April 2005);
- Agreement on Cooperation with FIU of Macedonia (signed on 29 October 2004);
- Agreement on cooperation with FIU of UNMIK Kosovo (signed on 07 December 2004);
- Agreement on Cooperation with FIU of Slovenia (signed on 28 December 2004);
- Agreement on Cooperation with FIU of Croatia (signed on 24 March 2005);
- Agreement on Cooperation with FIU of Bulgaria (signed on 11 April 2006);
- Agreement on Cooperation with FIU of Portugal (signed on 11 June 2007);
- Agreement on Cooperation with FIU of Russian Federation (signed on 07 September 2007);
- Agreement on Cooperation with FIU of Poland (signed on 15 November 2007);
- Agreement on Cooperation with FIU of Romania (signed on 10 October 2008);
- Agreement on Cooperation with FIU of the USA - Fin CEN (signed on 21 October 2008);
- Agreement on Cooperation with FIU of EULEX Mission in Kosovo (signed on 19 February 2009);
- Agreement on Cooperation with State Committee for Financial Monitoring of Ukraine (signed on 27 May 2009);
- Agreement on Cooperation with the Unit for Prevention of Money Laundering and Suspicious Cases of the United Arab Emirates (signed on 06 July 2009);
- Agreement on Cooperation with FIU of Bermuda (signed on 21 October 2009)
- **Agreement on Cooperation with FIU of Moldova (signed on 12 December 2010)**
- **Agreement on Cooperation with FIU of San Marino (signed on 12 December 2010)**
- **Agreement on Cooperation with FIU of Israel (signed on 12 December 2010)**
- **Renewed Agreement on Cooperation with FIU of Russia (signed on 15 December 2010)**

- Agreement on Cooperation with FIU of Aruba (signed on 14 March 2011)
- Agreement on Cooperation with FIU of Estonia (signed on 14 March 2011)

It is planned to sign the agreement with Japan, Cyprus, Canada, Hungary, Saudi Arabia and the British Virgin Islands.

1.2 What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?

Constitution of Montenegro

Article 55 Prohibition of activities and establishment

Activities of political, trade union and other organizations aimed at violent overthrow of the constitutional order, violation of the territorial integrity of Montenegro, violation of guaranteed freedoms and rights or inciting and fomenting of national, racial, religious and other hatred or intolerance shall be prohibited. Establishment of secret (clandestine) organizations and paramilitary groups shall be prohibited.

Criminal Code of Montenegro

Article 365 Criminal act - Terrorism

“Anyone who, with the intention of endangering the constitutional order and security of Montenegro... causes explosion or fire or undertakes other dangerous measures or kidnaps a person, or commits another act of violence or threats to undertake some dangerous action or to use nuclear, chemical, bacteriological or other dangerous substance and whereby may cause fear or feeling of insecurity of citizens shall be punished by imprisonment for a term of three to fifteen years.”

Article 373 Preparing acts against the constitutional order and security of Montenegro

“(1) Anyone who prepares the committing of criminal acts referred to in ... Articles 365...shall be punished by imprisonment for a term of one to five years.

(2) Anyone who directs or sends to the territory of Montenegro ... persons or arms, explosive, poisons, equipment, ammunition or other material, with the intention of committing one or more criminal acts referred to in this Chapter, shall be punished by imprisonment for a term of two to ten years.

(3) Preparations as of Paragraph 1 of this Article include acquiring or rendering usable means for committing the criminal act, removing obstacles for committing the criminal act, making arrangements, planning or organizing with others committing of the criminal act or of other activities for creating conditions for immediate execution of the criminal act.”

Article 447 Criminal act - International terrorism

“(1) Anyone who, with the intention of causing harm to a foreign state or organization commits abduction over a person or other act of violence, causes explosion or fire or takes other generally dangerous acts or threats by use of nuclear, chemical, bacteriological or other similar means, shall be punished by imprisonment for a term of three to fifteen years.

(2) If an offence referred to in Paragraph 1 of this Article resulted in death of one or more persons, the offender shall be punished by imprisonment for a term of five to fifteen years.

(3) If in the commission of crime referred to in Paragraph 1 of this Article the offender has committed intentional manslaughter, the offender shall be liable to imprisonment for a minimum term of ten years or to imprisonment of thirty years. “

Article 448 Criminal act - Taking hostages

“(1) Anyone who commits abduction of a person or threatens to kill that person, hurt or keep as hostage with the intention of forcing a state or international organization to do or not to do something, shall be punished by imprisonment for a term of two to ten years.

(2) The offender referred to in Paragraph 1 of this Article who frees the hostage of his own free will, although the purpose of the abduction has not been reached, can be liable to a reduced sentence.

(3) If an offence referred to in Paragraph 1 of this Article resulted in death of the hostage, the offender shall be punished by imprisonment for a term of three to fifteen years.

(4) If during the commission of offences referred to in Paragraph 1 of this Article, the offender committed intentional manslaughter of the hostage, the offender shall be liable to imprisonment for a minimum term of ten years or a prison sentence of thirty years. “

Article 449 Criminal act - Financing of terrorism

“(1) Anyone who provides or raises funds intended for financing of criminal offences referred to in Articles 447 to 448 of the present Code, shall be liable to imprisonment for a term of one to ten years.

(2) Funds referred to in Paragraph 1 of this Article shall be seized.”

Criminal Procedure Code of Montenegro

Article 81- Seizure of objects under the Court order

“(1) Objects which, according to the Criminal Code, have to be seized or which may be used as evidence in the criminal proceedings, shall be

temporarily seized and delivered for safekeeping to the Court or their safekeeping shall be secured in some other way.

(2) Anyone who is in possession of such objects shall be bound to hand them over upon the Court order. A person who refuses to hand them over may be fined in an amount not exceeding € 200, and in the case of further refusal a person may be imprisoned. Imprisonment shall last until the person hands over the objects or until completion of the criminal proceedings but not longer than two months. It shall be proceeded the same way against a person acting in an official capacity or a responsible person in a state authority, enterprise or other legal entity.

(3) Provisions of Paragraphs 1 and 2 of this Article shall be applied to data saved in devices for automatic or electronic data processing and media wherein such data are saved, which must, upon the court order, be handed over in a legible and comprehensible form. The Court and other bodies shall abide by the regulations on maintaining confidentiality of certain data.

(4) Temporary seizure does not relate to the following:

- 1) documents and other papers of state authorities, publication of which would violate the obligation to keep professional, state and military secret, until the competent body decides otherwise;
- 2) defendant's letters to his defense attorney or the persons referred to in Article 97, Paragraph 1, Items 1 to 3 of the present Code unless the defendant decides to hand them over voluntarily;
- 3) recordings, extracts from the register and similar documents that are in possession of persons referred to in Article 96, Item 3 of the present Code and that are made by such persons in relation to the facts obtained from the defendant while performing their professional service, if publication thereof would constitute violation of the obligation to keep a professional secret.

(5) Prohibition referred to in Paragraph 4, Item 2 of this Article shall not apply to the defense attorney or persons exempted from the duty to testify pursuant to Article 97, Paragraph 1 of the present Code if there is a reasonable doubt that they aided the defendant in committing the criminal offence or they helped him after the criminal offence was committed or if they acted as accomplices by virtue of concealment.

(6) The panel (Article 24, Paragraph 6) shall decide on an appeal against a ruling imposing a fine or imprisonment. The appeal against imprisonment shall not hold the enforcement of the sentence.

(7) The police authorities may seize the objects stated in Paragraph 1 of this Article when proceeding pursuant to the provisions of Article 230 and 246 of the present Code or when executing the judicial warrant.

(8) When seizing objects it shall be noted where they were found and they shall be described and, if necessary, their characteristics shall be established in some other way. A receipt shall be issued for the seized objects."

Article 523 Temporary confiscation of objects and property gain

“(1) If there are grounds for suspicion or a reasonable suspicion that a criminal offence of organized crime has been committed, the Court may order a measure of temporary confiscation of objects and property gain regardless of the conditions set forth in the provisions of Articles 81 to 87 and Articles 538 to 545 of the present Code.

(2) Unless otherwise prescribed by the provisions of this Chapter, in the proceedings of temporary confiscation of objects and property gain referred to in Article 1 of the present Code, provisions of the Law on Executive Proceedings as well as relevant provisions of the present Code shall be applied accordingly. “

Law on the Prevention of Money Laundering and Terrorism Financing

This Law determines measures and actions that Montenegro undertakes with a view to detecting and preventing money laundering and terrorism financing.

Article 3 envisages

“Measures for detecting and preventing money laundering and terrorism financing shall be implemented in all businesses and transactions of receiving, exchanging, keeping, using or other form of dealing with money or other property (hereinafter referred to as: transaction), and other transactions where required by this law and related subordinate regulations, as well as in any business transactions where the suspicion of money laundering and terrorism financing exists. The obligation to undertake these measures shall have: 1) banks and financial institutions; 2) organizations performing payment transactions; 3) post offices; 4) investment funds, pension funds and other participants on the capital market; 5) stock exchanges and stock exchange intermediaries; 6) insurance companies; 7) humanitarian, non-government and other non-profit organizations; 8) gambling houses and other organizers of games of chance; 9) exchange offices; 10) pawnbroker offices; 11) business organizations, entrepreneurs and natural persons engaged in a trade or business of:

- sale and purchase of claims,
- factoring,
- managing the property of third persons,
- issuing and performing operations with debit and credit cards,
- leasing,
- travel organization,
- trade in real estate,
- safekeeping,

- trade in precious metals and precious stones and products made from these materials,
- issuing guarantees and other warranties,
- crediting and credit agencies,
- lending and brokering in the negotiation of loan deals,
- brokering in the sale of insurance policies,
- organization and execution of auctions,
- trading with works of art,
- sale of automobiles
- sale of boats and
- other activities in connection with similar transactions of using money or other property. “

After the adoption of the MONEYVAL’s Third Round Detailed Assessment Report on Montenegro regarding the AML/CFT measures, the Working Group formed by the Ministry of Finance prepared the draft of the Bill on Changes and Amendments to the Law on the Prevention of Money Laundering and Financing Terrorism that was adopted by the Government on 20th January 2011. Now it is subject to the Parliamentary procedure.

Law on Foreigners

Article 1 on the subject matter

“This law regulates conditions of entry, movement and stay for foreigners on the territory of Montenegro.”

Article 5 on restriction and prohibition of movement

“Movement will be restricted or prohibited to a foreigner on specific area of Montenegro if that is required for reasons of national security and public order or if that person is recorded on relevant evidence lists as international felon.”

The drafting of the Law on the Administration of Temporarily and Permanently Seized Property is under way, and this law shall be in line with Article 31 of the UN Convention against Corruption and the relevant documents of the Council of Europe and the European Union.

1.3 What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?

The role and mission of the Army of Montenegro in the prevention and fight against terrorism is regulated by the National Security Strategy which states that the Army may engage as a support to the Police in combating terrorism.

There are no paramilitary forces in Montenegro and Article 55 paragraph 2 of the Constitution prohibits the establishment of secret, subversive organizations and irregular army.

- Security forces of Montenegro are Army and Police. Their use is regulated by the law.

Army is leading institution in defense and constitutes an armed force defending independence, sovereignty and state territory of Montenegro, contributing to the building and preservation of international peace in line with principles of international law that regulate the use of force. The Army supports civilian authorities in natural or manmade disasters and can be engaged as support to the police in combating terrorism.

Police provides general, personal and security of property and protection of citizens. The police are leading institution in internal security, performing activities related to prevention and suppression of all forms of crime, especially of organized crime and corruption, protection of human rights, supervision and control of state border, securing public peace and order, security of citizens and traffic. It is leading institution in combating terrorism, proliferation of weapons of mass destruction, corruption and drugs.

Forces for action in emergency situations are organized as a part of integrated response to emergency situations caused by natural, ecological, technical-technological (manmade), chemical, biological, nuclear, radiological and other disasters, as well as terrorism consequences and other hazards that might create risks and threats to the security of Montenegro and of the region. Leading institution in emergency situations (hazard management, protection and rescue and elimination of consequences in emergency situations) is a ministry responsible for internal affairs.

1.4 Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining *inter alia* to:

- Financing of terrorism;
- Border controls;
- Travel document security;
- Container and supply chain security;
- Security of radio active sources;
- Use of the Internet and other information networks for terrorist purposes;
- Legal co-operation including extradition;
- Safe havens and shelters to terrorists and terrorist organizations.

- Terrorism in Montenegro is sanctioned by the Criminal Code that recognizes the following criminal acts: terrorism, international terrorism, hostage taking and terrorism financing, which has brought the Montenegrin criminal legislation in line with the European Convention on the for the Suppression on Terrorism and the United Nation Convention on the Suppression of the Financing of Terrorism. With a view to preventing suspicious financial transactions, Montenegro passed the Law on the Prevention of Money Laundering and Terrorism Financing and the pertinent sublegal acts necessary for its implementation. In addition, the Administration for the Prevention of Money Laundering and Terrorism Financing was established and it represents the financial intelligence agency of an administrative type. This status was further detailed and formalized with the signing of the cooperation agreement with the Police Administration, the Customs Administration, the Tax Administration, the Central Bank of Montenegro, the Securities and Exchange Commission, the State Audit Institution and the basic courts. The requisite international cooperation was supported by cooperation agreements with financial intelligence agencies in the region that provide detailed accounts of the method of exchange of financial intelligence between the financial intelligence in the regional and further. The efforts and work of the Administration for the Prevention of Money Laundering and Terrorism Financing have been internationally verified by full membership of the Egmont Group, the international association of financial intelligence units. Representatives of the Administration participate in the work of all Egmont working groups which, in addition to a simplified and safe exchange of information, contribute to sharing the latest achievements and practices in the organization of the fight against money laundering and terrorism financing. **After membership in the Egmont Group and Moneyval, on 2nd June 2010 the APMMLFT was given an observer status in the Euroasian group-EAG. Admission of Montenegro in the EAG group created favorable conditions for more intensive exchange of financial intelligence information and in particular with the members of the EAG Group that are not the members of the Egmont Group.**

In its work, the Administration for the Prevention of Money Laundering is governed by standards set forth in EU Directives and Council of Europe and OSCE recommendations. With regard to the exchange of information, the Police Administration membership of the INTERPOL represents another key element for efficient and systematic fight against organized crime and accompanying effects.

List of terrorists is delivered to reporting entities and is published on the Web site of APMMLFT.

One of the priorities in the fight against terrorism and organized crime is successful protection of borders, monitoring the flow of people and goods across land and sea borders, as well as the modernization of travelling documents and computer and intelligence connecting with a view to exchanging information in this field. This gave rise to initiating the so-called

“smart borders” concept that would enable a free and fast flow of people and goods, but simultaneously implying the strengthening of security measures by introducing biometric indicators on passports and visas that would be stored in the common regional computer system. This would create the conditions for the suppression of cross-border crime and terrorism. Aware of the importance of such practical solutions, the Montenegrin authorities have started with the creation of the legal-technical solutions necessary for the use of identity documents prepared on the basis of the biometric technology. This project is expected to be finished by March 2008.

At end-2003, the Montenegrin police forces took over the authority of Montenegro border security from the Army of Serbia and Montenegro. With a continuous international assistance and support, Montenegro has been improving its capacities for a successful performance of this task, especially through cooperation with the relevant border authorities of all neighboring countries. The ultimate objective is the establishment of the system of integrated border management. Thus, Montenegro attended the regional meeting of representatives of National Authorities for the prohibition of chemical weapons was held in Sarajevo in October 2007. The discussions held at the meeting involved the exchange of experiences in the field of the regime and control of the export and import of chemical substances and the possibilities for joint determination of border crossings which would be used for the transit of such substances.

In the operational sense, a Department for combating organized crime was formed within the Criminal police, and the Special antiterrorist unit within the Ministry of Internal Affairs has existed for some time now and is completely ready to face this kind of problem should it appear in the country or the region. The Centre for fighting drugs and smuggling has also been established. As for participating in international fight against organized crime, the Police Administration has signed numerous agreements and established cooperation with counterparty authorities, particularly those of the neighboring countries and the region. The Police Administration is an active participant in all international and regional projects and conferences aimed at strengthening police cooperation among countries of the region and Europe in the fight against all forms of crimes. An important step further has been made in the reorganisation of the National Security Agency in making it into a reference intelligence agency, as well as the transformation of the former Military Security Service into the Department for defensive-security operations for communication and crypto-protection, and the forming of the Department for information-security and technical support of the Ministry of Foreign Affairs of Montenegro.

2. Stationing of armed forces on foreign territory

2.1 Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.

- Montenegro is determined to contribute to the building and preservation of peace on the regional and global level. During decision making process on the participation in international peace and humanitarian operations, the following is taken into account: international-legal basis of the mandate, integration objectives of Montenegro, available resources, location of hotspot and influence on the national security.

On the basis of decisions of the Parliament Montenegro's armed forces are part of:

- 1) ISAF Mission in Avganistan**
- 2) EU Peace Mission ATALANTA in Somalia.**
- 3) UN Observer Mission UNMIL in Liberia.**

3. Implementation of other international commitments related to the Code of Conduct

3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence- and security-building as an element of indivisible security are implemented in good faith.

- Montenegro regularly meets its commitments in the area of arms control, disarmament and confidence and security-building and regularly provides reports to different international mechanisms dealing with this matter, such as:

- 1) Conflict prevention centre
- 2) Agreement on Sub regional Arms Control
- 3) Oslo process – Convention on Cluster Munitions
- 4) Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention);
- 5) The Biological and Toxin Weapons Convention (BTWC);
- 6) Nuclear Non-Proliferation Treaty.

Montenegro also has national legislation in place to ensure that international norms and standards are followed with regard to arms control (e.g. Law on Foreign Trade, Law on Foreign Trade in Arms, Military Equipment and Dual-Use Items, Criminal Code, Criminal Procedure Code etc) .

3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.

- Foreign and security policy of Montenegro is directed to developing good neighbourly relations and strengthening regional cooperation with the objective to establish confidence and to promote peace in South East Europe, as well as membership in international and regional organizations.

Montenegro believes that small countries can best provide and solve their own security by accessing the system of collective security.

Montenegro actively participates and contributes to stability and security in the region and Euro-Atlantic community by being actively engaged in regional initiatives and processes and through bilateral and multilateral cooperation with partners and Allies.

Montenegro attaches great importance to arms control, disarmament and confidence and security-building measures in the OSCE region and contributes to enhancing security and stability in the region thru realization of obligations and commitments of regional arrangements and agreements, such as:

1) Agreement on subregional arms control – Montenegro, along with Serbia, Croatia, Bosnia and Herzegovina actively participates in the implementation of the Agreement which is aimed at building transparency and confidence and also at achieving balanced and stable defense force levels at the lowest numbers. Successful implementation of the Agreement is overseen by the Subregional Consultative Commission, and is ensured by conducting mutual inspections and exchange of relevant information. Montenegro gives significant contribution by conducting and receiving more inspections (quotas) than Agreement envisages (three quotas instead of one).

2) Vienna document – Montenegro thoroughly implements obligations under the Vienna document by exchanging military information and by receiving three inspections of the specific area on the annual basis and one evaluational visit. Within the framework of the document, Montenegro also conducts visits to the air bases of different participating countries.

With regard to Vienna document, Montenegro has bilateral agreements with Germany, Hungary and Greece that help further enhancement of stability and cooperation in the region (e.g. exchange of experiences and expertise thru meetings which are organized regularly).

3) Open Skies Agreement – Montenegro is not yet a member of this Agreement. However, Montenegro gives its contribution and participates in this instrument thru organizing training missions (last year a training mission was conducted in Montenegro with the support from Hungary and Germany). This year Montenegro will organize another training mission in cooperation with RACVIAC (with Hungary as a leader of the mission).

Montenegro is also implementing projects in the field of demilitarizing and destruction of stockpiles of conventional and other types of weapons. These projects are conducted in close cooperation with donor countries (USA, Great Britain) and international organizations (OSCE, NATO).

Section II: Intra-State elements

1. National planning and decision-making process

1.1 What is the national planning and decision-making process in determining/approving military posture and defense expenditures in your State?

- Defense system of Montenegro is an integral part of the national security system of Montenegro. It is consisted of mutually linked elements that will act in synergy in order to achieve defense goals. This entails the integrity of all elements internally, while externally it will develop depending on the pace of Montenegro accession to European and Euro-Atlantic integration. Defense system of Montenegro is defined in accordance with requirements, goals, capabilities and strategic defense concept of Montenegro.

Main elements of defense system are: Parliament of Montenegro, President of Montenegro, Government of Montenegro, Defense and Security Council, Ministry of Defense and Army of Montenegro (hereinafter: the Army).

Parliament of Montenegro passes laws, decision and other documents for defense system; declares state of emergency and state of war; decides on engagement of the Army, Police and civil protection in peace and humanitarian missions abroad; performs oversight of the Army and security services; passes the National Security Strategy and Defense Strategy; decides on defense budget.

President of Montenegro chairs the Defense and Security Council; commands the Army in accordance with decisions made by the Defense and Security Council; decides on employment of the Army in accordance with the law; issues decision on mobilisation development of the Army; issues orders on introduction of measures on readiness and mobilisation.

Government of Montenegro defines and runs defense policy; recommends the National Security Strategy and Defense Strategy; issues Defense Plan, Strategic Defense Review; issues legally binding decrees during the state of emergency or state of war in case the Assembly is unable to convene. The Government defines draft laws and issues by-laws. It ensures material and financial assets for the needs of defense system. Based on defense planning documents, provisions of special regulations and Defense Plan of Montenegro, the Government defines, harmonises and controls defense preparations of all public administration authorities.

Defense and Security Council issues decisions on commanding the Army; analyses and evaluates security situation in Montenegro and issues decisions for relevant measures to be taken; recommends to the Assembly declaration of state of war or state of emergency; recommends engagement of the Army in international forces.

Defense and Security Council of Montenegro consist of the President of Montenegro, Speaker of the Assembly and President of the Government.

Ministry of Defense recommends and implements defined defense policy; develops the Defense Plan of Montenegro and harmonises defense plans of other actors in the area of defense; makes assessment of danger of war and other dangers; establishes multilateral and bilateral co-operation in the area of defense; performs duties of organisation, equipping, arming, development and employment of the Army and other duties in accordance with the Constitution and law. The Minister of Defense is a civilian person.

The Army is professional defense force that defends independence, sovereignty and national territory of Montenegro, contributes to building and preservation of international peace in accordance with the principles of the international law.

Elements of the national security system perform their tasks in defense system of Montenegro in accordance with the Constitution, law and Defense Plan of Montenegro.

Funding for defence expenditures are made in the procedure and time limits prescribed by the Law on Budget.

Ministry of Defence and all other consumer units that are financed from the state budget, based on planned activities and needs, prepare and submit a request to the Ministry of Finance for allocation of budget funds by the end of August the following year for the fiscal year. Ministry of Finance, based on revenue estimates and submitted requests for allocation of budget resources, after the completion of deciding the budget spending units, submit Proposal to the Budget in October. The Government agrees the Proposal for the Budget and submits it to the Assembly for adoption.

Budget funds for security and defense needs are planned and used in a transparent manner, which is compatible with the standards and criteria of UN, EU and NATO recommendations within financial capabilities of the state of Montenegro.

1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?

Montenegro in the development of military capabilities, takes care of its needs and obligations arising from collective defense, the new concept of defense of Montenegro.

Since Montenegro is accepted into an Action plan for NATO membership and has committed to become, in the near future, a full member of the Alliance, mission, organization, training and equipment of the Army of Montenegro are in accordance with NATO standards.

- Montenegro is fully committed to actively contribute to the processes of strengthening principles of cooperative security and collective defense, which are based on multilateral cooperation and trust. The authorities in

Montenegro are aware that tackling security threats in modern world must be based on new grounds and require a systematic approach to security problems, along with seeking long-term solutions to the root causes of these phenomena.

Montenegro is a small country, both regarding its area and population, yet having a very important geostrategic position. Although economically encumbered by being a country in transition, Montenegro is doing everything possible to contribute to overall security, both at the regional and global levels.

Since gaining independence in May 2006, Montenegrin authorities have adopted the following strategic documents: the Programme of Fight against Corruption and Organized Crime, Action Plan for the Implementation of the Programme of Fight against Corruption and Organized Crime, the Strategy for Integrated Border Management, the Defense Strategy and the National Security Strategy of Montenegro. The latter is the document that defines the development and functioning of the system of national security of Montenegro and it is an expression of its commitment to be a part of the regional and global security systems.

One of the missions of the Army, as defined by the Defense Strategy, is to contribute to building and preservation of peace in the region and world.

The Army makes contribution in building and preservation of peace in the region and world by performing the following tasks:

- participation in international peace and humanitarian missions,
- participation in international military co-operation aimed at confidence and partnership building,
- participation in arms control.

Vision of development of the Army includes functional establishment and development of professional, effective, financially sustainable, interoperable and contemporarily equipped Army. With quality implementation of the vision, Montenegro will, inter alia, ensure level of interoperability required for participation in collective security system.

2. Existing structures and processes

2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?

- Article 11 Paragraph 7 of the Constitution of Montenegro defines that the Army and security services are under democratic and civil control.

Article 82 Paragraph 10 of the Constitution of Montenegro prescribes that the Parliament of Montenegro performs supervision of the Army and security services. Article 129 Paragraph 2 prescribes that the Army is under democratic and civil control.

2.2 How is the fulfillment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?

- Article 82 Paragraph 10 of the Constitution of Montenegro defines that the Parliament of Montenegro performs supervision of the Army and security services. Article 41 of the Rules of Procedure of the Parliament of Montenegro prescribes that the Security and Defense Committee performs parliamentary oversight of the work of the Police and National Security Agency; considers implementation of the constitutionally ensured freedoms, human rights for people and citizens in cases when Police and National Security Agency are applying their authorities; considers draft laws, other provisions and general acts, strategy and other issues in the area of safety and defense of Montenegro and its citizens; gives consideration to proposals for nomination of the Police director and the director of National Security Agency.

Articles 43 – 46 of the Law of National Security Agency prescribes that the Agency submits annual reports about its work to competent body and at the request of working body Agency submits special reports on certain activities within its scope. On a working body request, Agency is obliged to allow insight in the procedure of oversight of letters and other means of communication, if national security is not threatened. Agency can not provide information about the identity of its associates, its undercover servants and other persons for which disclosure of such information would cause them harm, as well as information on security and intelligence sources and ongoing actions. Sessions of competent working body are closed for public and president informs the public about the work of the working body according to conclusions. At least once a year, competent working body submits a report about its work to the Parliament of Montenegro which, depending on the content of the report, can decide whether to allow public presence to the session or not.

Article 177 of the Law on Army of Montenegro prescribes that the Army is under democratic and civil control and that democratic and civil control of the Army is preformed by the Parliament of Montenegro, Government of Montenegro and Defense and Security Council. Supervision of the Army is performed by the Parliament of Montenegro through the competent working body. Minister of Defense submits annual report on the overall state of the Army to the competent working body of the Parliament of Montenegro for consideration before the end of first quarter of the current year. At the request of the competent working body, Minister of Defense submits special reports on the current state of the Army. Besides annual report on the overall state of the Army, Minister of Defense also submits special reports upon request of the Defense and Security Council.

Provision of the Article 88 of the Law on Police defines that control of the work of Police is ensured with parliamentary, civil and internal control. Article 89-92 of this Law prescribes that parliamentary control of Police is

performed by the Parliament of Montenegro through its competent working body and that Director of Police submits annual report to competent working body at least once a year and no later than by the end of first quarter of the current year for the previous year. Director of Police can submit report to the working body if needed or upon request. Police can not provide information to the working body about the identity of Police associates; undercover members of Police; other persons for which disclosure of such information would cause them harm, as well as information about security and intelligence sources and ongoing actions.

Article 93 of the Law on Police defines that civil control of the work of Police is performed by the Council for Civil Control of the Work of Police, as a body that assesses the use of Police authorities for protection of human rights and freedoms.

Citizens and police officials can address the Council. The Council is composed of five members nominated by the Bar Association of Montenegro, Medical Association of Montenegro, Lawyers Association of Montenegro, the University of Montenegro and the NGOs dealing with human rights. The head of the Council is elected by majority of votes from the total number of members. The mandate of the Council is five years. The procedure for nomination of Council members is initiated by the President of the Parliament by sending an invitation request to all subjects authorized to nominate. The Parliament also states the finalization of the procedure. The Police are obligated to give relevant information at the request of the Council. The Council evaluates and gives recommendations which are delivered to the Head of the Police whose duty is to inform the Council about the undertaken measures. The Council adopts Rules of procedure on its work, while the expert aspects of the work of the Council are performed by the relevant office of the Parliament.

Article 72 of the Rules of procedure of the Parliament of Montenegro prescribes that the relevant Committees of the Parliament can organize parliamentary hearings and investigations to obtain information; expert opinions about draft documents in the Parliament procedure; for the purpose of clarification of issues relevant for the documents drafting as well as for the successful implementation of the control function of the Parliament. The provisions of Articles 73-82 of the Rules of procedure regulate the consultative hearing, control hearing and parliamentary inquiry.

Article 187 of the Rules of procedure, inter alia, provides that the MP has the right to ask the Government, or the relevant minister, a question and to receive an answer in order to obtain needed information related to specific issues of the work of the Government, respectively about the implementation of defined policy.

2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?

- Article 130 Paragraph 5 of the Constitution of Montenegro prescribes that the Defense and Security Council suggests the use of the Army in international forces. Article 82 Paragraph 8 prescribes that the Parliament of Montenegro decides about the use of Montenegrin Army units in international forces.

Article 2 of the Law on Use of Montenegrin Army Units in International Forces and the participation of the members of civil protection, police and public servants in state administration in peacekeeping missions and other activities abroad defines that activities considered under the use of Army's units in international forces and the participation of the members of civil protection and public servants in peacekeeping missions and other activities abroad are:

- 1) for peacemaking and peacekeeping,
- 2) in the framework of peacekeeping forces and peace missions,
- 3) providing humanitarian aid,
- 4) encouraging development of democracy, legal safety and protection of human rights in the framework of international organizations and alliances.
- 5) obligations defined by international agreements.

Article 11 of the afore mentioned law provides that the Council once a year submits Report on use of Army's units to the Parliament, and that the Minister of Defense, at least once a year, submits to the Council a Report on the use of Army's units in the above mentioned activities, respectively about the participation of the Army members in trainings or specializations abroad. The head of a relevant state agency submits a Report to the Government on the participation of members of civil protection and other public servants in peacekeeping missions and other activities abroad.

3. Procedures related to different forces personnel

3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?

- The concept of military obligation in the legislation of Montenegro does not imply a duty for recruitment or military service or serving in the Army reserves of Montenegro. For this reason there is no mandatory conscription as to there is no obligation for a state administration body competent for defense issues to keep evidence of military servants nor there is an obligation for citizens to apply for registration in the military evidence, and that is why the

citizens are not registered or recruited. The citizens of Montenegro do not serve in the military or in reserves.

There are no paramilitary forces in Montenegro.

Security forces of Montenegro are the Army and the Police.

The Army is the leading institution in defense and represents the armed force which defends the independence, sovereignty and the territory of Montenegro, contributes to the building and preservation of international peace in accordance with the principles of International Law related to the use of force. The Army helps the civil authorities in cases of natural hazards and other disasters, and it can be engaged as a support to the Police in the fight against terrorism.

3.2 What kind of exemptions or alternatives to military service does your State have?

- In Montenegro, as mentioned above, there is no exception or alternative to military service, or obligatory conscription.

The citizens of Montenegro are obligated to military service only during state of war or emergency.

During peace time Montenegrin citizens can be called upon, on the voluntary basis, for training courses in order to adequately prepare to carry out their duties in a case of war, which can not last more 60 days during the calendar year. The announcement for the training is published by the Ministry of Defense and contains the rules for its realization.

A person who, because of his religion or belief, is not ready to participate in the performance of military duties involving the use of weapons is permitted conscientious objection and it fulfills this duty in jobs that do not involve the use of weapons.

3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?

- The rights and procedures for the protection rights of Army members are regulated by the Law on Army of Montenegro. The Minister of Defense decides about these rights, and his decision is final, but there is a possibility to start a trial before relevant court against Minister's decision.

4. Implementation of other political norms, principles, decisions and international humanitarian law

4.1 How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g, through military training programmes and regulations?

- The Constitution of Montenegro regulates that the Army of Montenegro defends the independence sovereignty and the state territory of Montenegro in accordance with the principles of international law related to the use of force (Article 129, Paragraph 1), and the Law on Army of Montenegro provides that individuals that serve in the Army of Montenegro have the right and duty to defend the independence, sovereignty and state territory of Montenegro in accordance with relevant legislature and international law on the use of force.

Concerning the mentioned constitutional principle or the legal provision, training programs in the Army of Montenegro, among others, contain themes related to bases of international humanitarian law and international law on armed conflicts.

The obligation of each member of the Army of Montenegro is to have a good knowledge about humanitarian law and international law on armed conflicts, which is checked in the procedure of evaluation of combat readiness of the Army of Montenegro, especially in the procedure of the preparation of the members of the Army of Montenegro for participation in peacekeeping forces.

4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?

The Law on Army of Montenegro provides that, inter alia, individuals serving in the Army of Montenegro has the right and the duty to perform in accordance with the Constitution, Law, other legal regulations and general legal acts, and during their military service execute orders of the superiors, except those which fulfillment is in contradiction with the law and would represent a felony. In the case he/she receives such an order, the person is obligated to inform the higher superior of the superior who had given that order and also inform the Minister of Defense.

With this and with other relevant provisions of the law related to the individual responsibility in the service of the Army of Montenegro, servants are informed in the trainings and during specialization courses. Besides this, the regulations related to this responsibility are published in the official newspaper of Montenegro, and on the official Web page of the Ministry of Defense as well as on the official web site of the Army of Montenegro.

4.3 How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?

- National Security Strategy and Defense Strategy determine the strategic concept of defense, the projected defense system, specific missions and tasks of the Army of Montenegro and other strategic issues relevant for the defense system as well as for the Army of Montenegro.

The Constitution of Montenegro and the Law on Army of Montenegro prescribe the tasks and the command of the Army of Montenegro, the way to complete tasks of the Army of Montenegro, as well as the principles and methods of implementation of democratic and civil control of the Army of Montenegro.

The Constitution of Montenegro prescribes that the Army and security services are under democratic and civil control (Article 11, Paragraph 7; Article 129, Paragraph 2), as well as that the Parliament has the role of supervision of the Army and security services (Article 82, Item 10).

Means of implementation parliamentary supervision, democratic and civil control of the Army are defined in the Law on Army of Montenegro providing that the democratic and civil control of the Army is performed by the Parliament of Montenegro (through the relevant working body), the Government of Montenegro and the Defense and Security Committee. Furthermore, this law prescribes that the Minister of Defense submits the Report on overall state of the Army to the Parliament of Montenegro, and at the request of the relevant working group or of the Defense and Security Council submits specific reports on the situation in the Army.

Considering the above mentioned constitutional principles and legal instruments, there is no possibility that the Army of Montenegro can be used for limitation of human rights and freedom of individuals, members of specific ethnic groups, nor it can deprive them of their national, religious, cultural, linguistic and ethnic identity.

4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?

- Introduction of persons in service in the Army of Montenegro with their rights in accordance with the Constitution of Montenegro, law and other legal regulations is a matter of continuous education of those persons.

The Constitution of Montenegro (Article 54) provides that the professional member of the Army of Montenegro, Police and other security services can

not be a member of a political organization, and that political organizing is prohibited in state administration bodies.

The prohibition of political organizing in the Army of Montenegro, as well as prohibition for persons in service of the Army of Montenegro to be members of the political organizations is also prescribed by the Law on Army of Montenegro.

4.5 How does your State ensure that its defense policy and doctrine are consistent with international law?

- National Security Strategy and the Defense Strategy of Montenegro, adopted by the Parliament of Montenegro, are conceptualized in accordance with the international law related to security and defense and were prepared in cooperation and with participation and suggestions of experts and organizations from partner countries which deal with this matter. In this way, Montenegro ensured that the defense policy and doctrine is defined and upgraded in accordance with the international law and the best practices in this field.

Section III: Public access and contact information

1. Public access

1.1 How is the public informed about the provisions of the Code of Conduct?

- General provisions of the Code of Conduct can be found on the official web site of the Ministry of Foreign Affairs - www.mip.gov.me

1.2 What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?

- Replies to the Questionnaire on the Code of Conduct are posted on the official web site of the Ministry of Foreign Affairs.

1.3 How does your State ensure public access to information related to your State's armed forces?

- Public access to information related to Montenegro's armed forces is available on official web sites of relevant institutions - Ministry of Defense, Police Directorate.

The Constitution of Montenegro and the Law on parliamentary supervision in the areas of security and defense stipulate the obligation to consider the report of the Ministry of Defense and the Army of Montenegro, which is made available to the public through the web site of the Army and Defense Ministry, where other information related to the activities of the Army can be found.

Ministry of Defense prepares press releases, organize round tables and press conferences regarding important activities. Ministry of Defense issues monthly magazine "Partner" - on European integrations, defense and army. Free access to unrestricted information held by the Ministry of Defense is provided in accordance with the Law on free access to information.

2. Contact information

2.1 Provide information on the national point of contact for the implementation of the Code of Conduct.

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