

**Development of Monitoring Instruments
for Judicial and Law Enforcement institutions
in the Western Balkans
2009-2011**

**Technical Assessment Report
Montenegro**



CARDS Regional Action Programme

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Technical Assessment Report Montenegro

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1. Introduction and Background

This report has been written within the context of the project ‘Development of monitoring instruments for judicial and law enforcement institutions in the Western Balkans’ funded by the European Union CARDS Regional Action Programme. It describes the Montenegrin data collection systems on crime and criminal justice as well as on migration, asylum and visa on the basis of the information gathered during the on-site research mission to Podgorica from 16 - 20 November 2009. The research mission was carried out by the United Nations Office on Drugs and Crime (UNODC), in partnership with the Joint Research Centre on Transnational Crime (TRANSCRIME) and was supported by the local UNODC focal point in Podgorica. The whole mission was made possible through the close cooperation and assistance of the Montenegrin authorities and benefited from the time and inputs of the many institutions and individuals visited during the mission.

The goal of the technical assessment presented here is to describe and assess the collection, analysis and use of justice and home affairs statistics in Montenegro against international and EU standards. It is thus part of a series of project activities with the ultimate goal of bringing existing national statistics mechanisms in justice and home affairs institutions of the countries and territories of the Western Balkans towards compliance with relevant international and EU *acquis*, standards and best practices. Project activities to date include a first desktop research study entitled ‘Background Research on Systems and Context. Justice and Home Affairs Statistics in the Western Balkans’ and a second study entitled ‘Developing standards in crime and criminal justice statistics – International and EU *Acquis*’. Further project activities will comprise the development of programme guidelines, the development of regional indicators and targeted capacity building in the area of data collection and statistics for justice and home affairs institutions.

The standards used for assessment in this report are expanded in further detail in the study ‘Developing standards in crime and criminal justice statistics – International and EU *Acquis*’. As set out in the study, standards related to justice and home affairs statistics remain in their infancy at EU level. Many ‘standards’ are to be found in the (non-binding) work of EU-mandated expert groups and relevant actions of EU organisations such as the Statistical Office of the European Communities (Eurostat), rather than in EU *Acquis* having the force of law. As such, in the set of standards used in this assessment report, EU level norms are supplemented by relevant work at the international level, including that developed by the United Nations in the Manual for the Development of a System of Criminal Justice Statistics. The assessment standards should therefore be taken as representative of core themes that are common both to developing norms and standards at the EU *and* international level. Where an individual standard has seen particular development at EU level or is clearly contained in binding *acquis*, then this is indicated in the standard by means of a clear note.

2. Crime and Criminal justice statistics

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2.1 Police statistics

2.1.1. Introduction

2.1.1.1. Institutions responsible for data collection and management

The Police Department operates as an independent body within the Ministry of Interior (MoI).¹ It collects statistics on crimes and all security events as well as on traffic offences and other misdemeanors related to the public order. The Police Directorate is structured within the Police Department as an administrative body for carrying out police activities and consists of six departments and five sectors.² The Crime Police Sector consists of eight divisions responsible for different areas of criminal offences, including a Division for Organized Crime and Corruption.³ The Department for Planning, Development and Analysis is responsible for data collection and management. It performs strategic analyses with regard to security issues and produces publications and other information material.

Geographically, the police service is organized into 8 districts or regional units (Podgorica, Nikšić, Bar, Herceg Novi, Berane, Bijelo Polje, Pljevlja, Budva), 13 sub-districts and 21 municipalities.

2.1.2. Data input (recording of crimes)

2.1.2.1. Data entry

Standard

Any reported or suspected crime incident coming to the attention of the police should be recorded as a crime incident by the responsible authority (either before or after some initial investigation). The threshold for recording a suspected crime incident should be clearly defined. Clear rules on the recording of data should be issued to all responsible data recording units and applied uniformly throughout the system. When recording crimes, the police should make use of a unit record-based system that contains details of each individual incident and person accused ('formal contact' with the police as a suspect).

Assessment

At the level of the Police Station all noteworthy incidents are first recorded in the Book of Daily Events. Information on all noteworthy incidents is extracted from the Book of Daily Events and sent to the sub-district office via a brief narrative, non-standardized, information note. The threshold for recording an incident as a criminal offence is the following: when the police find out that a crime was committed, they have to inform the prosecutor in charge; when the prosecutor defines the incident as a 'crime', the case is

¹ The full name is Ministry of Internal Affairs and Public Administration. The independence of the police is defined legally by law. The 'Law on the Police of Montenegro' is available online at: http://www.upravapolicije.com/cms/mestoZauploadFajlove/Zakon_o_policiji_RCG.doc.

² The six departments are: Department for Planning, Development and Analysis; Department for Internal Control and Authority Enforcement; Department for International Police Cooperation and EU Integration; the Special Anti-Terrorist Unit; the Special Police Unit and the Operative-Communication Center. The five sectors are: the General Police Affairs Sector; the Crime Police Sector; the Border Police Sector; the Human Resources, Legal Affairs, Telecommunication and Information Systems Sector and the Sector for Protection of Persons and Property.

See: http://www.upravapolicije.com/crna-gora-uprava-policije-organizacija_1583_3_36.html.

³ These are: the General Crime Division; the Economic Crime Division; the Organized Crime and Corruption Division; the Drugs and Trafficking Division; the Special Verification Division; the Crime Laboratory Division; the Witness Protection Unit; and the NCB-Interpol Podgorica.

recorded in the crime registry. The sub-district office then records the incidents either in the crime registry (called 'KU') or in another registry (called 'PU') where other noteworthy incidents which are not defined as 'crimes' by the prosecutor are recorded (e.g. suicides).

The KU and the PU registries are the same for all sub-districts. Adults and minors have the same KU and PU, even though the cases involving minor perpetrators are managed by a sub-sub unit within each sub-district. The KU exists both on paper and in electronic form. The latter is slightly more detailed.⁴ The KU (both on paper and electronic) is updated whenever new information on the case becomes available.

The recording unit of the KU is the case (one case per line). Information recorded on each case includes (in separate columns): a progressive case number; date of reporting; date of crime; legal name of the crime in the Criminal Code; data on the victim (name, address); data on the perpetrator or the perpetrators (name, place and date of birth, citizenship, place of residence, whether arrested, whether in custody, whether forwarded to prosecutor or investigative judge; requests by public prosecutors or investigative judge for additional information/investigations; decision of the public prosecutor; date of the sending of the statistical sheet (for a full list, see Annex I).

The PU contains the following information on the recorded cases not defined as 'crimes' by the prosecutors: ordinal number; date; content of the incident; whom the case was delivered to; remarks (This field is filled in if the case is delivered to the prosecutor, i.e. when after the investigation of the incident the case is considered a crime and recorded in the KU, this is recorded in the field 'remarks' of the PU).

In addition, since 2006 criminal intelligence data are entered into a database called 'Application on Crime Acts' used for criminal intelligence and not for statistical purposes.

In 2008, the so-called 'Tripartite Commission' has been established in order to oversee the implementation of the Programme for Combating Corruption and Organized Crime. One of its goals is to improve the cooperation between law enforcement bodies and the judicial system and to harmonize the different statistical methodologies used by criminal police, courts and prosecution services. The Police Department has produced a draft of this harmonized methodology with three pilot statistical forms. These forms would collect information on organized crime, general crime and commercial crime, respectively, including data on the offence type; date and place of occurrence; methods of execution; information on the perpetrator (unknown, known with name and ID number, minor, recidivist, sex, citizenship); damage and measures taken. For general and economic crimes, the forms would also collect information on the status of the damaged (legal entity, sex, age, citizenship) and for economic crime specific information on the type, quantity and value of the stolen goods is planned to be recorded (See Annex II for a full list of data items contained in the pilot statistical forms).

⁴ In addition to the information of the KU in paper form, it contains information on the citizenship and the sex of the victim.

2.1.2.2. Person records

Standard

Person records on the suspected offender (and, where applicable, the victim) should contain details of age; sex; ethnicity; offender-victim relationship; citizenship and geographical area of residence. The person record clearly states the charge with reference to relevant legal provisions. The relationship between the charge and the incident classification is clear.

Assessment

The police records criminal incidents in the crime registry by case. For each case, there is a section with several data entry fields where information on known perpetrator/s is recorded, including: ordinal number of the perpetrator; name, surname, father's name; place and date of birth; citizenship; municipality where he/she lives; custody when he/she was arrested, whether the arrest was up to 48 hours; date and hour when the case is given to the investigative judge; date and hour of the custody; date and hour when the case goes to the investigative judge and the person is released; date when the file is given to the investigative judge if the person has been taken into custody or to the prosecutor if the person has not been taken into custody. No separate information on the sex and ethnicity of the offender and the offender-victim relationship is recorded.

Data on the victim are all recorded in one field of the crime registry and include at a minimum the name, surname and address of the victim.

2.1.2.3. Case file numbering and integrated file numbers

Standard

It is good practice for a system to assign an 'incident number' to reported events, and an 'integrated file number' (IFN) to persons suspected of having committed a crime. The person is linked to the incident through the IFN and incident number. The IFN should be retained once the file moves from the level of the police to prosecution and later to court and can be used to track persons across the system in order to calculate specific attrition rates, average processing times and other performance indicators.

Assessment

When the case is entered into the KU (both on paper and in electronic form), a case file number (incident number) is assigned to it. This case file number is the same number referring to the related and very detailed investigative folder to be sent to the prosecutor or the investigative judge in charge. This unique identifier is not shared by prosecution or courts. A separate number is also assigned to the person suspected of having committed a crime (known perpetrator).

2.1.2.4. Offence classification system

Standard

Reported incidents should be classified using a standard offence classification system and should have a clearly defined relationship with the 'charge' assigned to a suspected offender. The crime classification scheme should be applied uniformly by all police stations.

Assessment

In compiling crime reports as well as in recording offences a standard offence classification system, based on the articles of the Criminal Code, is used.⁵

2.1.3. Data flow

2.1.3.1. From local to central level

Standard

Data from *local* police stations should be reported in a uniform format, using the standard crime classification scheme to a *central* institution.

Assessment

Based on the information recorded in the KU, monthly 'Reports of the Work of the Criminal Police' are compiled by the various organizational levels: sub-districts, the districts, the five sectors and the Department of Planning, Development and Analysis. Every month every level must prepare this report and send it to the next higher level. The reports contain a number of standard tables and a section with conclusions and remarks.

The information flow is the following: the sub-districts send the monthly reports to the districts, which examine and aggregate the data received. The districts forward the aggregated district-level reports to the five sectors of the Police Directorate and also directly to the central Department of Planning, Development and Analysis (with a breakdown related to the registered crimes and activities of the sub-districts); the five sectors also send their sector reports to the Department of Planning, Development and Analysis, which finally sends them to the Police Directorate.

Monthly reports contain standard tables for several crime types. In the 'Report of the Work of the Criminal Police – District Unit' the following information is contained:

1. *State of the crime in the territory of the district.* Registered crimes and activities of the district and the sub-districts (Table 1). This table contains information on: number of filed reports; registered crimes (subdivided into: total crimes, general crimes and commercial crimes); number of reported persons; results of solving crimes (crimes with unknown perpetrator, cases solved at a later stage (after the case was officially closed), other unknown perpetrators, solved cases from previous periods).
2. *Activities of the criminal police on solving crimes.*
 - 1) *General crimes:*
 - blood crimes. Total and breakdown by article of the Criminal Code, with information on: perpetrators (total; sex structure: male, female; minors: elder and younger minors and children⁶); number of solved cases; percentage of solved cases; information on the victim (total; sex structure; minors); how many cases from the previous period were solved;
 - sex crimes. Total and by article of the Criminal Code, with the same information as for blood crimes above;

⁵ The Criminal Code is available online in English at: http://www.upravapolicije.com/crna-gora-uprava-policije-criminal-code_54_8_16.html.

⁶ Minors are people between 14 and 18. Within the category 'minors' there is a further distinction between: a) minors who reached the age of 14 but not yet 16 at the time of committing the crime (these are considered 'younger minors' who cannot be punished but correctional measures can be imposed on them; b) minors who reached the age of 16 but not yet 18 (these are considered 'elder minors' who can be sentenced to a juvenile prison). Children are minors less than 14.

- property crimes. Total and by article of the Criminal Code, plus a table focused on the object of the attack (apartment; house; commercial object; bank; vehicle etc.)
- drug-related crimes. Total and by article of the Criminal Code, with information on: number of crime reports; number of people reported; structure of people reported (citizens of Montenegro or foreigners); sex; minors; recidivists; type and quantity of drugs seized by the police;
- misdemeanors. Information on: legal article of the misdemeanor; number of people reported; structure of the reported people (citizens of Montenegro or foreigners); sex; minors; people arrested; recidivists;
- other crimes within ‘general crimes’. Total and by article of the Criminal Code, with information on: perpetrators (total; sex structure m/f; minors: elder and younger minors and children); number of solved cases; percentage of solved cases; information on the victim (total; sex structure; minors); how many cases from the previous period were solved.

II) Commercial crimes:

- number and structure of economic crimes. Total and by article of the Criminal Code, with information on: number of crimes; number of crime reports; number and structure of persons reported (total; sex; minors); number of solved cases; percentage of solved cases; damaged legal entities (state sector; private sector); damaged persons (total; sex; minors); cases from the previous period that were solved; damage;
 - crimes committed by minors. Information on: total crimes; total reports; structure of crimes (heavy robbery; robbery; murder; qualified murder; attempt of murder; heavy injury; light injury; participation in street-fights etc.);
 - crimes where the perpetrators are foreigners;
 - crimes where the damaged party is a foreigner;
 - crimes from the previous period that were solved (by article of the Criminal Code).
3. *Crime reports submitted to the Special Prosecutor.* Information on the structure of the crime reports submitted to the Special Prosecutor: crime report, KU number and date; number of persons; article of the Criminal Code; consequences (damages); total;
 4. *Rejected crime reports.* Overview of the crime reports rejected by the prosecution (because of lack of evidence). Information on: KU number and date; number and structure of crimes (total and breakdown by article); number and structure of persons reported (total, sex and minors); reason for rejection (no elements of crime; no documentation; circumstances exclude prosecution; no probable cause; other);
 5. *PU section.* Information on: incidents described in the additional registry (PU) – actions upon them (total; structure of (dismissed) crimes: petty theft; damaging other people; heavy robbery; robbery; forgery; providing general danger etc.); statistical overview of suicides (ID number; name; date of birth; occupation; nationality; way; reason).

Reports are compiled and sent on a monthly basis by the sub-districts.⁷ District Reports must be compiled by the 6th of the month and must be sent both to the five Sectors and to the Department of Planning, Development and Analysis at the central level. Each Sector must write a report by the 10th of each month; by the 15th, the report of the Department of Planning, Development and Analysis must be sent to the Police

⁷ In theory, the available statistics could be broken down to daily events, since the KU indicates the date of the criminal incident.

Directorate. Reports are sent both on paper by post and electronically by email in form of a Word document.

2.1.3.2. Counting rules

Standard

Guidelines at the international level suggest that it may be appropriate to apply a 'Principal Offence' rule when counting and reporting persons. Written counting rules should address at a minimum the questions whether a Principal Offence rule is applied or not; how multiple offences are counted and how offences committed by more than one person are counted.

Assessment

When recording data in the KU, the counting unit is the case. One case with several perpetrators is written down in the KU as one crime with several perpetrators; one case with several offences is written down as one case and the several offences are all listed by article of the Criminal Code. On the other hand, in compiling the statistical forms one case with several offences is divided into each of the offences and each offence is counted separately (thus, no principal offence rule is applied). Serial offences can be defined by the prosecutor as 'crimes in duration' and so counted as one offence. On the other hand several offences committed by the same perpetrator can be counted as several offences if the prosecutor decides to follow each case separately. The counting of serial offences thus depends on the decision of the prosecutor, who takes into account, among other things, whether the offences concern the same victim or different victims.

When it comes to recording and counting crime suspects, information on all suspected perpetrators is first recorded in the KU. However, when the statistical tables of the monthly reports are compiled all cases with several offences are divided into these several offences with the related perpetrators. Therefore there is a double (or multiple) counting of perpetrators.⁸

| Counting Rules | Application |
|--|--|
| When are data collected for inclusion in statistics? | When the prosecutor defines the incident as a 'crime' |
| Principal offence rule applied? | No |
| How are multiple offences counted? | Each offence is counted separately |
| How is an offence committed by more than one person counted? | One case and one offence |
| How many persons are counted in joint offence? | All offenders; persons involved in multiple offences are counted in each offence |

The police stations have neither written rules on how to collect data nor statistical sheets for sending crime data to the sub-district level. On the other hand, the Department of Planning, Development and Analysis (DPDA) provides the sub-districts with some written rules both on how to record data in the KU and how to compile the statistical forms. However, these written rules regulate only the recording of traffic offences and not the recording of other crimes. Thus, at present there are no

⁸ Montenegro did not provide data on the number of 'Persons brought into formal contact with the police and/or criminal justice system' in its answer to the 11th UN-CTS, because the exact number of perpetrators is not known, due to this counting procedure.

comprehensive written rules disseminated to the local and regional levels on how to record and count criminal offences and suspects.

2.1.3.3. Coverage: Geographic and institutional

Standard

Data on reported crime incidents in *all geographical regions* and by *all responsible law-enforcement authorities* should be recorded and included in national aggregate statistics.

Assessment

The crime data collection of the police covers the entire territory of Montenegro. All responsible law enforcement authorities record and report data on reported incidents, victims and perpetrators.

2.1.3.4. Timeliness and periodicity

Standard

Data on reported crime incidents, victims and suspected offenders should be *regularly reported* to a central authority.

Assessment

Data on reported crime incidents, victims and suspected perpetrators are reported to the central Department for Planning, Development and Analysis on a monthly basis. Data received are reported in aggregate form by this Department on the national level in an Annual Report. Furthermore the Police Department produces special aggregate reports upon special requests or for *ad hoc* conferences on specific crime types (e.g. on organized crime and corruption).

2.1.4. Output (Production of Statistics)

2.1.4.1. Data validation

Standard

Statistical data should be checked for their consistency, accuracy and reliability. If inconsistencies or doubts about the reliability of data emerge, inquiries about possible sources of errors in data compilation, transmission or aggregation should be performed.

Assessment

Every reporting level checks data received by the previous level in order to validate their consistency and reliability.

2.1.4.2. Statistical analysis of data

Standard

Analysis of crime and criminal justice statistics helps to demonstrate to intended users the value of such statistics. Whilst policy analysis and data interpretation should be performed by subject-matter specialists, much analysis can be provided in the form of simple descriptive statistics, such as frequencies, percentages, rates and rates of change.

Assessment

Each of the five Sectors of the Police Directorate produces an analysis of data received for the crime areas of its own responsibility by calculating frequencies, percentages, rates and rates of change. These analyses are presented in the five reports of each of the sectors: general police affairs; crime police; border police; human resources, legal affairs, telecommunication and information systems; protection of persons and property.

2.1.4.3. Reporting

Standard

Data on reported crime incidents, victims and suspected offenders should be regularly reported (at least once a year on the previous year) in aggregate form by a central authority.

The number of recorded incidents during one year should be reported disaggregated by crime type, while the number of persons brought into formal contact with the police during one year should be reported by crime type; age; sex and citizenship. Crime type disaggregation of recorded incidents and persons brought into formal contact should include at least the following categories: Intentional homicide; Assault; Rape; Sexual Assault/sexual violence; Sexual offences against children; Robbery; Theft; Burglary; Domestic burglary; Motor vehicle theft; Fraud; Drug-related crime; Drug-trafficking; Kidnapping; Involvement of organized crime; Money laundering; Corruption; Trafficking in human beings; Smuggling of migrants; Cybercrime and Crime involving racism and xenophobia.⁹

Assessment

Statistical forms ('Report of the work of the criminal police') are compiled on a monthly basis and contain standard tables on the following crime types, by total for each group and within each group by article of the Criminal Code: blood crimes (criminal offences against life and body - Art. 143-157 CC) ; sex crimes (criminal acts against sexual freedom - Art. 204-212 CC); property crimes (Art. 239-257 of the CC); drug-related crimes (Art. 300 and 301 of the CC); misdemeanours; other crimes within general crimes; commercial crimes (criminal acts against payment operations and economic transactions -Art. 258-286 of the CC).

Information on the profile of offenders and victims is less detailed and includes only the sex structure and the age group of minors (elder minors; younger minors; children) of both the perpetrators and the victims.

Regarding reporting on organized crime, the Crime Police Sector has a special Division for Organized Crime and Corruption, which reports on the number of criminal reports that were submitted to the Special Prosecutor for Fighting Organized Crime.¹⁰ The Annual Report of the Police then contains information on the number of criminal reports (cases) and the number of persons suspected of committing crimes in these reports.

⁹ At the EU level, core crime types for reporting used by Eurostat are intentional homicide, violent crime (comprising physical assault, robbery and sexual offences), robbery, domestic burglary, motor vehicle theft, and drug trafficking. In addition, EU *acquis* indicates that data should be collected on money laundering, trafficking in persons and crime involving racism and xenophobia.

¹⁰ When defining 'Organized Crime', the police and prosecution should make use of the provisions of Article 507 of the Criminal Procedure Code which state in para. 3 and 4: (3) The provisions of this chapters are applied in cases there are grounded suspicions that the executed crime is a result of organized act of more than two persons with the goal to gain property of power through conducting aggravated crimes. (4) Apart from the conditions from the paragraph 3 of this article, for the existence of the organized crime minimum another three conditions must be met: that every member of the criminal organization had in the advance defined task or role, that the activity of the criminal organization is planned to endure longer time or indefinitely, that the activity of the organization is based on applying certain rules of internal control and discipline of the members, that the activity of the organization is planned and conducted in international dimensions, that in the activity of the organization violence or intimidation is used or that there is readiness for using it, that in the conducting of the activity political, commercial or business structures are used, that money laundering or illegally gained profit is used, that there is an influence of the organization or its part on the legislation, media, executive or judicial branch of government or other social or economic factors.

The number of cases is further disaggregated into broad crime types, including: forgery of documents, deception, criminal organization, illegal crossing of the state border, illegal arms and explosives possession, misuse of an official position, money laundering, trafficking, tax evasion, heavy robbery, misuse of authority in commerce, money forgery, murder, bribe giving and bribe taking.

2.1.4.4. Dissemination of police statistics

Standard

Dissemination of data should ensure that statistics on crime and criminal justice are actually used and useful to their users. Dissemination can be in the form of internal or externally published reports, responses to information requests, in special tabulations or in academic and scientific forums. The use of the Internet is a cost-effective and timely method of reaching a wide range of users. In addition to statistics, the methods used in the collection, processing and analysis of data as well as the definitions, counting rules and other metadata should be disseminated to provide meaning and context and to enable a correct interpretation of the data.

Assessment

Data collected by the Department for Planning, Development and Analysis within the Police Directorate are published in an Annual Report and made available to the wider public. The Annual Report is sent both to Parliament and to the Government. The 2007 Annual Report is available online both in Montenegrin and in English.¹¹ Furthermore, the Police Directorate produces special reports for special conferences and upon requests (e.g. on organized crime and corruption).

2.2. Prosecution statistics

2.2.1. Introduction

2.2.1.1. Institutions responsible for data collection and management

The prosecution system consists of thirteen basic prosecutor's offices (attached to the thirteen Basic Courts), two higher prosecutor's offices (one of which, based in Podgorica, with a Special Deputy Prosecutor for Organized Crime and Corruption) and one Supreme State Prosecutor's Office. Basic prosecutors are in charge of cases with a maximum punishment of less than ten years of imprisonment; higher prosecutors are in charge of cases with a maximum punishment of more than ten years of imprisonment, as well as for specific crime areas: organized crime, corruption, terrorism, war crimes and hate crimes (provoking religious or national hate).¹²

There are two main forms of prosecution data collection and management:

- a. The first one is internal and is managed by the Supreme State Prosecutor's Office;
- b. The second one is carried out by the Statistical Office of Montenegro (MONSTAT), to which each prosecutor's office supplies unit records in standard statistical forms.

¹¹ For the Montenegrin version, see:

http://www.upravapolicije.com/cms/mestoZaUploadFajlove/GODISNJI_IZVJESTAJ.2007.doc. By 10 March 2010, the English version was still 'under construction' (http://www.upravapolicije.com/crna-gora-uprava-policije-annual-report_1570_7_33.html).

¹² Organized crime is regulated by Articles 300 (3) and 401 of the Criminal Code; corruption is regulated by Articles 423 and 424; hate crimes by Article 370.

2.2.2. Data input (recording of crimes)

2.2.2.1. Data entry

Standard

Data on all charges initiated and persons prosecuted should be recorded by the responsible authorities. The threshold for initiating a prosecution record ('persons prosecuted') should be clearly defined and a unit record should be opened for each person. Clear rules on the recording of data should be issued to all responsible data recording units and applied uniformly throughout the system. The person record (unit record) should clearly state the charge (one or more charges) and details of case disposition (e.g. court appearance, conviction or other disposition by the prosecutor). Person records should contain details of age; sex; ethnicity; offender-victim relationship; citizenship and geographical area of residence.

Assessment

At the prosecutor's office a file is opened when a criminal incident is reported by the police, by citizen complaints or by prosecutors themselves and when there is enough evidence of a criminal act.¹³ Every prosecutor's office keeps eight criminal registries, as well as one administrative registry (called 'TUS') plus one registry on measures of secret surveillance (called 'NTN'). The eight criminal registries record the following, either on persons or cases, respectively (for a fuller list of the information recorded, see Annex III):

- KT: records information on known adult perpetrators (52 fields);
- KTM: on known minor perpetrators (42 fields)¹⁴;
- KTN: on unknown perpetrators (17 fields);
- KŹ: on cases in second instance of criminal procedure (27 fields);
- KTR: on various types of non-criminal cases (e.g. accidents, suicides). It records all the offences which do not require a criminal procedure (10 fields);
- TU: on documents (analysis, reports, bills) concerning the work of the prosecutors in charge;
- KT-I: recorded information for the responsibility of legal entities (50 fields). This is no longer in use since the law has redefined certain criminal cases as misdemeanors;
- KŹ-I: is the new registry for the criminal responsibility of legal entities in second degree procedures that are not misdemeanors (23 fields).

The Higher Prosecutor's Office based in Podgorica keeps three additional registries:

- KTS: on crimes under jurisdiction of the higher prosecutor¹⁵ defined as 'crimes' with known perpetrator/s;
- KTN: on crimes under jurisdiction of the higher prosecutor defined as 'crimes' with unknown perpetrator/s;
- KTRS: on every file received by the higher prosecutor, including those incidents not defined as 'crimes'.

All the registries are recorded and stored on paper. Only the KT and the KTM are recorded and stored both on paper and electronically. This special software program (in use for the last 15 years) is organized according to the structure of the registries.

¹³ In the various case registries there is a field on who submitted the case to the prosecutor.

¹⁴ It should be noted that all the personal characteristics of the perpetrators (both adults and minors) are listed together in only one field of the KT and KTM registries.

¹⁵ These are cases that provide for more than ten years of imprisonment and cases of organized crime, corruption, terrorism, war crimes and provoking religious/national hatred.

The KTS will be put in electronic format at the beginning of 2010, with the same software used as for the KT and the KTM data input.

Registries record criminal incidents by case (with a case number assigned to each case) and related case characteristics data. The data recording system uses separate registries for minors and adults – the age threshold used in the breakdown is 18 without a further distinction between younger and elder minors. It should be noted that there is only one joint column for name, surname, unique citizen number, occupation and place of residence, year of birth and citizenship of the perpetrator. There is also only one column for data on the victim. Recorded data are systematically updated when new information becomes available. The KT and the KTM are systematically updated both on paper and electronically.

In 2010 the prosecutor's offices will also start to use a new case management system (called 'PRIS'). In every office selected staff members will be trained to use the system. The PRIS will also allow some limited statistical outputs in automated form.

2.2.2.2. Case file numbering and integrated file numbers

Standard

It is good practice for individual prosecuted persons to be assigned an 'integrated file number' (IFN). The person should be linked to police-recorded records through the IFN. Differences between the charge and the police incident classification scheme should be clearly identified. The same IFN should be kept in court records and can be used to track persons across the system in order to calculate specific attrition rates, average processing times and other performance indicators.

Assessment

When recording a case in the internal registry of the prosecutor's office, an unique identifying number is assigned to the case instead of to the prosecuted person. So when several perpetrators are included in the same case, the same identifying number is assigned to the persons prosecuted in this criminal case. Personal details are noted down in different lines under the same case.

Regarding the data collection by MONSTAT, each form sent to MONSTAT has the case identifying number on top, which refers to the KT registry entry (or the KTM registry entry for minors). In addition, there is an ordinal number of the submitted data sheet at the end of the form.

2.2.2.3. Offence classification system

Standard

Unit records on persons prosecuted contain one or more clear criminal charges with reference to relevant legal provisions. Differences between the charge and the police incident classification scheme are clearly identified. The charge scheme is applied uniformly by all prosecutors.

Assessment

When recording offences and compiling statistical forms prosecutors use a standard offence classification scheme that is entirely based on chapters and articles of the Criminal Code.

Similarly, the standard offence classification system used in the statistical forms of MONSTAT is based on articles, paragraphs and sub-paragraphs¹⁶ of the Criminal Code.

2.2.3. Data flow

2.2.3.1. From local to central level

Standard

Data from all prosecutor's offices should be reported in a uniform format to a central institution.

Assessment

Moving from the individual record to the aggregate level, standardized forms are used for data collection. As mentioned above, there are two separate data flows:

1. From prosecutor's offices to the Supreme State Prosecutor's Office;
2. From prosecutor's offices to MONSTAT.

Regarding the internal data flow, information from the prosecution offices' registries is entered into standard tables manually. The counting unit of the tables is the case. There are 24 standard tables for cases involving adults prosecuted: one for each of the 23 chapters¹⁷ of the Special Part of the Criminal Code broken down by article, and one summarizing sheet on the total number of cases involving adults prosecuted broken down by chapter. Furthermore there are several tables for minors.

For instance, the standard table on 'Criminal Offences against state bodies' collects information in 57 columns, including data on: workload (unsolved reports from previous period, new reports received); action taken (investigative actions, information requested); solved reports by type (dismissed, accusation, request for investigative actions, given to other bodies); unsolved reports; solved investigations (procedure stopped, investigation handed over, accusation, unsolved); verdicts (imprisonment, fine, probation etc.); security measures (psychiatric treatment etc.) and appeals (approved, rejected etc.). For a full list of data collected in this table see Annex IV.

Tables are compiled annually with yearly breakdowns only. Every prosecutor's office prepares the tables on paper together with a narrative explanation by the Chief Prosecutor and sends them by post to the next higher level of the prosecution (by the end of February for the previous year). The level of territorial aggregation is the jurisdiction of the 13 prosecutor's offices, which can encompass one or more of the 21 municipalities.

¹⁶ The articles of the Criminal Code can be further subdivided into paragraphs and sub-paragraphs (which is most commonly one sentence).

¹⁷ Chapter XIV: Criminal offences against body and life; chapter XV: criminal offences against freedom and rights of man and the citizen; Chapter XVI: criminal offences against election rights; Chapter XVII: criminal offences against reputation and honor; Chapter XVIII: criminal offences against sexual freedoms; Chapter XIX: criminal offences against marriage and family; Chapter XX: criminal offences against working rights; Chapter XXI: criminal offences against author's rights and intellectual property; Chapter XXII: criminal offences against property; Chapter XXIII: financial and commercial crimes; Chapter XXIV: criminal offences against health of people; Chapter XXV: criminal offences against environment; Chapter XXVI: criminal offences against public security of people and property; Chapter XXVII: criminal offences against security of public traffic; Chapter XXVIII: criminal offences against computer data security; Chapter XXIX: criminal offences against constitution and security of Montenegro and Serbia and Montenegro; Chapter XXX: criminal offences against state bodies; Chapter XXXI: criminal offences against the judiciary; Chapter XXXII: criminal offences against public order and peace; Chapter XXXIII: criminal offences in the field of legal issues; Chapter XXXIV: criminal offences against official duty; Chapter XXXV: criminal offences against humanity in accordance with international law; Chapter XXXVI: criminal offences against the Army of Serbia and Montenegro.

In addition, every three months all prosecutor's offices at any level (the Special Deputy Prosecutor on Organized Crime and Corruption included) produce a short report on the work of each single prosecutor and send it to the next higher level. These quarterly reports contain the following information on the work of each single prosecutor:

- number of files;
- number of investigations;
- number of investigations dismissed;
- number of direct accusations;
- number of suggestions for accusation;
- number of investigations interrupted;
- number of charges brought;
- information on verdicts: imprisonments, paroles, rejections of the charges, acquittals.

Regarding the data flow from prosecution to MONSTAT, each prosecutor's office supplies statistical data in unit record forms to the Section for Judiciary Statistics in the Department for Education, Research, Development, Judiciary, Administration and Culture of the Statistical Office of Montenegro (MONSTAT).¹⁸ In this long-standing data collection system, MONSTAT receives individual case records on reported persons from all prosecutor's offices (with the exception of the Special Prosecutor for Organized Crime and Corruption which does not supply these data).

In particular, the prosecutor's offices fill in the forms 'SK-1 and 'SK-3' when the procedure following the criminal report and preliminary hearing is completed. These forms refer separately to adults and juveniles (juveniles are persons between 14 and 18 years).¹⁹

The form SK-1 collects information on the person reported (name, sex, date of birth, etc.); information on the crime – in case of several crimes about the most serious one (article/paragraph/sub-paragraph of Criminal Code, whether it is related to other crimes and if so to which article/paragraph/sub-paragraph of the Criminal Code, year when the crime was committed, whether a property damage was the result; who filed the report), the type of decision by reason (rejected as it was not a criminal act, rejected for insufficient evidence, closed investigation, charges brought directly, charges brought after the investigation, etc.); whether the case was sent to another State and which one; information on the duration of the procedure.

Form SK-3 collects roughly the same information as form SK-1 but is more detailed and requests additional information on the minor (place of habitation, occupation, nationality, citizenship, marital status, education, whether the crime was committed individually or with someone, etc.); on the family circumstances at the time of committing the crime (living with mother, with father, etc.) and on the occupation of the parents. For a full list of data collected in Forms SK-1 and SK-3, please see Annex V.

Data are normally sent to MONSTAT by the prosecutor's offices on paper by post. The Parliament provides the national statistical office with the legal framework and some written rules regulating the way data are to be collected. In particular there is a 'Law of

¹⁸ MONSTAT is an independent agency that is formally under the Ministry of Finance. Three people are dealing with criminal justice statistics in the section for judiciary statistics within MONSTAT. This number is considered to be sufficient for current data collection purposes. However, the staff has not received any particular statistical training on criminal justice statistics. In addition to prosecutors and courts, by special request of EUROSTAT MONSTAT occasionally contacts the Analytics Unit of the Police Directorate and the Border Police Department (within the Ministry of Interior Affairs and Public Administration) and the Prison System (within the Ministry of Justice) to receive additional data.

¹⁹ Two other forms, the 'SP-1' and the 'SP-3' were used until the new Law on the responsibility of legal entities was passed after which commercial crimes became misdemeanors.

Statistics' and a program of statistical action which is adopted every five years by Government.

2.2.3.2. Counting rules

Standard

Guidelines at the international level suggest that it may be appropriate to apply a 'Principal Offence' rule when counting and reporting persons. Written counting rules should address at a minimum the questions whether a Principal Offence rule is applied or not; how multiple offences are counted and how offences committed by more than one person are counted.

Assessment

In 2007, the Ministry of Justice, following the advice of the Supreme State Prosecutor's Office, has produced a 'Book of Methodology' that provides the administrative offices of the prosecutors with written rules regulating the way data are to be recorded in the registries.

When counting offences and persons, the 'principal offence rule' is applied to cases involving multiple offences. The prosecutor in charge makes the decision on the most serious offence, which usually is that with the longest potential sentence. Serial offences (i.e. a series of offences of the same type by the same perpetrator) are normally joined together into one offence according to the principle of a crime 'continuation in time'. However, if the victims are different, several different offences are recorded and perpetrators are counted in each separate offence.

These rules are the same for the statistical compilation of the prosecutor's offices and by MONSTAT.

2.2.3.3. Coverage: Geographic and institutional

Standard

Data from unit records should be collated from *all* prosecutors in the territorial jurisdiction by a central institution.

Assessment

Regarding the internal data collection, all the prosecutor's offices submit their data to the next higher level, which are then centralized by the Supreme State Prosecutor's Office. Regarding the data collection by MONSTAT, data are received from all prosecutor's offices in the territorial jurisdiction of the country, excluding the Special Deputy Prosecutor for Organized Crime and Corruption.

2.2.3.4. Timeliness and periodicity

Standard

Data from all prosecutor's offices should be *regularly* collected and reported.

Assessment

Regarding the internal data flow, information from all prosecutor's offices are reported yearly to the next higher levels, but upon request data referring to any other time interval could be made available.

Regarding the data collection by MONSTAT, the system requires reporting institutions to send data on a monthly basis, but the forms are often not sent for six months or more, which leads to concerns that prosecutor's offices do not report all the required unit record to MONSTAT, which could render judicial statistics compiled by MONSTAT incomplete. The data are compiled and reported by MONSTAT on an annual basis.

2.2.4. Output (Production of Statistics)

2.2.4.1. Data validation and statistical analysis of data

Standard

Statistical data should be checked for their consistency, accuracy and reliability. If inconsistencies or doubts about the reliability of data emerge, inquiries about possible sources of errors in data compilation, transmission or aggregation should be performed. After the validity and reliability of data has been established, much of the analysis can be provided in the form of simple descriptive statistics, such as frequencies, percentages, rates and rates of change.

Assessment

Regarding the internal data collection, a special commission within the Supreme State Prosecutor's Office is in charge with checking data and registries every year after the production of the Annual Report. While there is no special department for analytics, some data analysis (e.g. increase/decrease of cases by crime types, general remarks on the state of crime in Montenegro etc.) is carried out by the Supreme State Prosecutor's Office. The basic prosecutor's offices and the two Higher Prosecutor's Offices carry out some data analysis for the areas under their responsibilities.²⁰

Regarding the data collection by MONSTAT, the Section for Judiciary Statistics does not make any validation or adjustment of the data received in the unit record forms. The only data validation performed is an automated 'logical control' made when the individual case records are inputted into the electronic database. MONSTAT does also not perform any analysis of the data received, but instead processes them directly into standard tables for reporting.

2.2.4.2. Reporting and Dissemination

Standard

The number of persons prosecuted during one year should be reported disaggregated by criminal charge, with reference to the relevant legal provisions. Crime type disaggregations of persons prosecuted should include at least the following categories: Intentional homicide; Assault; Rape; Sexual Assault/sexual violence; Sexual offences against children; Robbery; Theft; Burglary; Domestic burglary; Motor vehicle theft; Fraud; Drug-related crime; Drug-trafficking; Kidnapping; Involvement of organized crime; Money laundering; Corruption; Trafficking in human beings; Smuggling of migrants;; Cybercrime and Crime involving racism and xenophobia.

Assessment

When reporting prosecution data internally, a disaggregation by crime type of persons prosecuted is prepared according to the 23 chapters of the Special Part of the Criminal Code. The Supreme State Prosecutor's Office produces an Annual Report which is submitted to Parliament in March of each year for the previous year and is then

²⁰ For example, within the Higher Prosecutor's Office based in Podgorica, two people deal with statistics. However, they have not received any special statistical training for analyzing judicial data.

published. Not all data collected are contained within this report, which is disseminated in a printed version and online in Montenegrin only.²¹

Regarding Organized Crime, the Annual Report of the State Prosecutor's Office contains data on the number of criminal reports that have been dealt with by the Special Prosecutor for Organized Crime in the Higher Prosecutors' Office. Data reported include the number of criminal reports in the field of organized crime, the number of investigations, charges and verdicts (by type of verdict). In addition, there are data on the type of organized crime reports by chapters and articles of the criminal code.

Statistics collected by MONSTAT are reported in the Statistical Yearbook. Not all the data collected are disseminated in this publication but some additional tables are produced and published after special requests. The Statistical Yearbook is made available to the public, both in Montenegrin and in English, both online²² and in printed copies. The 2009 Statistical Yearbook was published in December 2009 and presents criminal justice data on 2008.

More specifically, the section 'Judiciary' in the 2009 Statistical Yearbook contains information on the numbers of: courts of general jurisdiction; magistracy council and authorities for misdemeanors; public prosecutors, high public prosecutors, municipal prosecutors and their deputies; lawyers and law apprentices; reported juveniles, by criminal act, sex, type of court decision and duration of confinement in 2008; reported adults by criminal acts, sex, type of court decision and duration of confinement, in 2008; persons convicted of criminal acts, by type of sanctions imposed, in 2008; adults convicted, by age and type of criminal acts, in 2008; persons accused of criminal acts; victims of criminal acts where actors of criminal acts are convicted majors (minors) in 2008; persons accused of economic violations by type of court decision and activity. The disaggregation by crime type generally follows the chapters of the Criminal Code.

2.3. Court statistics

2.3.1. Introduction

2.3.1.1. Institutions responsible for data collection and management

Montenegro has a four-tiered judicial system, which consists of 15 basic (or municipal) courts, two higher courts, the Court of Appeal and the Supreme Court. There are also two commercial courts and the Administrative Court of Montenegro.²³ (See Annex VI for the rules of jurisdiction).

Overseeing the work of the courts, the Judicial Council is an independent and autonomous body that ensures the independence and autonomy of courts and judges.²⁴ In particular, the Judicial Council establishes the methodology for preparing reports on the work of the courts and annual work schedules. For more information, please see Annex VII.

²¹ <http://www.tuzilastvocg.co.me/IZVJESTAJ%20ZA%202008.doc>

²² For the online versions of the 2006, 2007 and 2008 Statistical yearbooks, see: <http://www.monstat.org/EngPublikacije.htm>

²³ The competencies of each of these courts, as well as the jurisdiction in criminal cases of the basic and higher courts and the role of the Supreme Court are defined in the Official Gazette of Montenegro' No. 5/02.

²⁴ The Judicial Council was established in 2008 by the Law on the Judicial Council ('Official Gazette of Montenegro' No. 13/08).

There are two main forms of data collection from courts in Montenegro:

- a. The first one is managed the Judicial Council (Department of Regulations);
- b. The second one is carried out by MONSTAT, which collects data on all final decisions from all first instance courts.

2.3.2. Data input (recording of crimes)

2.3.2.1. Data entry

Standard

Data on all charges and persons brought before the courts should be recorded by the responsible authorities. The threshold for initiating a trial ('person brought before the criminal court') should be clearly defined. International and EU level standards suggest that court authorities should make use of a unit record-based system that contains details of the charge or charges assigned to each person (by relevant section/articles of the Criminal Code) and the final court disposition (acquittal or conviction and sentencing details). Person records should contain details of age; sex; ethnicity; offender-victim relationship; citizenship and geographical area of residence.

Assessment

Courts open a file when it is received either from the prosecutor in charge (who can decide either to continue the investigation, to ask for some other investigative actions to be organized by the court or to bring up the charge) or directly from the police when the accused is taken into police custody for more than 48 hours. Since 1995, the following criminal registries are kept by the various courts:

| Type of court | Registries for adults | Registries for minors |
|---------------------|---|---|
| Basic courts: | <ul style="list-style-type: none"> - 'Kri', on investigative actions - 'Ki', on investigations - 'K', on criminal cases where the persons charged are adults - 'Kr', on all submissions relating to criminal proceedings that are not to be entered in other registries | <ul style="list-style-type: none"> - 'Kim', on preliminary procedures regarding juveniles - 'Km', on criminal cases involving juveniles that are heard by basic and higher courts - 'Krm', on submissions relating to juvenile criminal proceedings that are not to be entered in the "Kim" and "Km" registers |
| Higher courts: | <ul style="list-style-type: none"> - 'Kri', on investigative actions - 'Ki', on investigations - 'K', on persons charged in first instance (by case) - 'Kr', on various criminal matters - 'Kž', on criminal cases in second instance | <ul style="list-style-type: none"> - 'Kim', on preliminary procedures regarding juveniles - 'Km', on criminal procedures against juveniles - 'Krm', on various juvenile criminal cases - 'Kžm', on criminal cases in second instance regarding juvenile matters |
| The Court of Appeal | <ul style="list-style-type: none"> - 'Kž', on criminal cases in second instance - 'Kr', on various criminal matters | <ul style="list-style-type: none"> - 'Kžm', on criminal cases in second instance regarding juvenile matters |
| The Supreme Court | <ul style="list-style-type: none"> - 'Kž-l', on criminal cases in third instance - 'Kr', on various criminal matters | <ul style="list-style-type: none"> - 'Kžm-l', on criminal cases in third instance regarding juvenile matters |

Courts record information in various registries by case including data on the case, the proceedings, the persons involved and the decisions made.

For example, the 'Kri' registry on investigative actions is kept both on paper and in electronic form. The electronic version contains information on all the perpetrators

unlike the paper version which indicates only the name and other general information of one suspected person with a generic note ('plus others'). The 'Ki' registry is kept both on paper and in electronic form and is updated when new information becomes available.

For more information and a full list of items recorded in the court registries, please see Annex VIII.

2.3.2.2. Case file numbering and integrated file numbers

Standard

It is good practice for individual accused persons to be assigned an 'integrated file number' (IFN) in the court file. This IFN should be the same as that assigned to the person record at the police and prosecution levels. The person record can then be linked to police and prosecution records through the IFN in order to calculate specific attrition rates, average processing times and other performance indicators.. Differences between the charge and the police incident classification scheme should be clearly identified.

Assessment

When a case is recorded in the internal registry of the court, a unique identifying number is assigned to the case file instead of to the person charged. So when several persons are charged in the same case, the same identifying number is assigned to these persons in this criminal case. Personal details are noted down in different lines under the same case. The case file number used in the first instance is different from the number assigned in the registries of the other instances.

Regarding the data collection by MONSTAT, each form sent to MONSTAT has the case identifying number on top, which refers to the K registry entry (or the KM registry entry for minors). In addition, there is an ordinal number of the submitted data sheet at the end of the form.

2.3.2.3. Offence classification system

Standard

Unit records on persons brought before the courts contain one or more clear criminal charges with reference to relevant legal provisions. Differences between the charge and the police incident classification scheme are clearly identified. The charge scheme is applied uniformly by all courts.

Assessment

Regarding the internal data flow, courts data are collected according to the chapters of the Criminal Code. Regarding the data collection by MONSTAT, the standard offence classification system used in the statistical forms is based on the articles, paragraphs and sub-paragraphs of the Criminal Code (both for the principal offence and for one related crime).

2.3.3. Data flow

2.3.3.1. From local to central level

Standard

Data from all courts should be reported in a uniform format using the crime classification scheme to a central institution.

Assessment

Moving from the individual record to the aggregate level (statistics), standardized forms are used for data collection. As mentioned above, there are two data flows:

- a. From the courts to the Judicial Council;
- b. From the first instance courts to MONSTAT.

With respect to the first data flow, every three months each court compiles standard forms to be sent to the Judicial Council. According to the 'Law on the Judicial Council', one of the duties of the Judicial Council is to establish the methodology for compiling forms on the work of the courts and to collect and compile the statistical forms. Forms are filled in according to the type of the case. For instance, the third quarterly report of the basic courts for 2009 contains information on: the number of solved cases by 1st October 2009 stemming from the years 2009, 2008, 2007, 2006 and from 2005 and earlier; work load of each judge in the basic court (type of cases, unsolved cases, solved cases, etc.); decision by each judge (verdict, order, other way, etc.); total number of decisions by type of case (verdict, order, settlement, other way, etc.); length of procedures in complicated cases of 2008 (number of cases up to 3 months, 6 months, 9 months, one year, over one year); quality of work in complicated cases of 2009 (solved upon appeal, confirmed, changed, annulled); quality of work by judge (percentage of cases solved upon appeal, confirmed, changed, annulled). For a full list of data compiled in quarterly court reports, please see Annex IX.

All forms are filled in manually (an automated production of the forms is not yet possible) and then sent to the Judicial Council either on paper by fax or by post (depending on the administrative office of each court) or by email.

With respect to the second data flow, MONSTAT collects data from the 15 basic courts, the 2 superior courts and the 2 commercial courts. The statistical office does not receive data from the Supreme Court. Data are sent to MONSTAT by all courts acting as first instance courts, at the moment when the criminal procedure is officially completed, the final decision has been formally passed and the case is closed. This means that in case of appeal the first instance court is informed by the appeal court on the outcome and decision at appeal level. The data are sent from the administrative offices of the first instance courts as individual case records using standard forms.

In particular, different forms are filled in for adults ('SK-2') and juveniles ('SK-4'). Juveniles are persons between 14 and 18 years.²⁵ Data are normally sent to MONSTAT by the courts on paper by post.

The form SK-2 collects information on persons charged – of whom only some will be convicted – including on: name, sex, date of birth, place of habitation, occupation, nationality, citizenship, marital status, education, whether the crime was committed individually or in cooperation with someone else, how many persons were involved in the crime, whether the person has been convicted earlier of some crime, etc.; information on the crime (legal name of the crime, article, paragraph and the sub-paragraph of the Criminal Code, whether it is related to other crimes and, if so, to which article and paragraph of the Criminal Code, year when the crime was committed, whether a property damage was the result; number of connected crimes), information on the court's decision by reason (dismissed as it was not a criminal act, dismissed for

²⁵ Within the category 'juveniles' there is a further distinction between: a) juveniles who reached the age of 14 but not yet 16 at the time of committing the crime – these are considered 'younger juveniles' who cannot be punished but correctional measures can be imposed on them; b) juveniles who reached the age of 16 but not yet 18 at the time of committing the crime – these are considered 'elder juveniles' who can be sentenced to a juvenile prison sentence.

insufficient evidence, prosecutor dropped the charges, acquitted, charges rejected, guilty, etc.); whether the person was extradited to another State; information on the sentence (main sentence, reduced sentence, parole, property taken, etc.); information on the victims (number, sex, age group – adult, minor, younger minor); information on the length of the procedure.

Form SK-4 collects roughly the same information as form SK-2 but is more detailed and requests additional information on: measures taken in preliminary procedures against the minor in question (supervision of a fostering body, removal from the environment, no measures taken); on who reported the minor; on the family circumstances at the time of committing the crime (living with mother, with father, etc.) and on the occupation of the parents. For a full list of data collected in Forms SK-2 and SK-4, please see Annex X.

2.3.3.2. Counting rules

Standard

Clear rules on the recording of data should be issued to all responsible data recording units and applied uniformly throughout the system. Written counting rules should address at a minimum the questions whether a Principal Offence rule is applied or not; how a person who is convicted of more than one offence of the same type is counted (as one person or as two or more people), and how a person dealt with more than once during the same year is counted.

Assessment

The Ministry of Justice (upon obtaining the opinion of the Judicial Council) has provided the courts with written rules regulating the way data are to be recorded. The 'Court Rules' are available online in Montenegrin and English.²⁶

When counting cases, if a case includes several offences that fall under different chapters of the Criminal Code, the case is divided according to the number of the offences. Each case then refers to one offence and is counted separately under each chapter of the Criminal Code, so the principal offence rule is not applied.

Regarding the data collection by MONSTAT, data are collected on persons charged in court after the criminal procedure has been officially completed. When a person is convicted of several offences which fall under several chapters of the Criminal Code, the offender is counted only under the most serious offence. However, the other offences are also noted down in the statistical form by article of the Criminal Code – as related offences – and are available for statistical analysis.

2.3.3.3. Coverage: Geographic and institutional

Standard

Data from unit records should be collated from *all* courts in the territorial jurisdiction by a central institution.

Assessment

Regarding the internal data collection, courts of all over the country submit their statistics to the next higher levels, so statistics received by the Supreme State

²⁶ Official Gazette of the Republic of Montenegro, No. 36/04 of June 30, 2004. See: <http://www.sudovi.co.me/content/docs/zakoni/en/Rules%20of%20Court.pdf>.

Prosecutor's Office cover the entire territory and all courts. Regarding the data collection of MONSTAT, data are received from all first instance courts and cover all final decisions, including decisions at the appeal levels (therefore, MONSTAT does not cover data from the Supreme Court).

2.3.3.4. Timeliness and periodicity

Standard

Data from all courts should be *regularly* collected and reported.

Assessment

The Judicial Council receives every three months data from the basic courts, the higher courts and the Court of Appeal for internal purposes. Statistics on the national level are compiled every three months, except for data on corruption, money laundering, misuse of public position, bribery and other crimes which are compiled monthly. Upon request statistics can be broken down to periods of less than three months.

Regarding the data collection by MONSTAT, the system requires reporting institutions to send data on a monthly basis, but the forms are often not sent for three months or more. The data are compiled and reported on an annual basis.

2.3.4. Output (Production of Statistics)

2.3.4.1. Data validation and statistical analysis of data

Standard

Statistical data should be checked for their consistency, accuracy and reliability. If inconsistencies or doubts about the reliability of data emerge, inquiries about possible sources of errors in data compilation, transmission or aggregation should be performed. After the validity and reliability of data has been established, much of the analysis can be provided in the form of simple descriptive statistics, such as frequencies, percentages, rates and rates of change.

Assessment

Regarding the internal data flow from courts to the Judicial Council, courts are responsible for the data that they send. The data received are checked both by the Judicial Council itself and by the Supreme Court in order to verify their consistency, accuracy and reliability. Furthermore the Judicial Council sends data received to the Ministry of Justice for further checks.

Data from all the courts are integrated at the central level by the Judicial Council for statistical analysis. The Department for Regulations within the Secretariat of the Judicial Council performs analysis of court statistics (on the frequency of certain crimes in front of courts; on the work of the courts; etc).²⁷

Regarding the data collection by MONSTAT, the Section for Judiciary Statistics does not make any validation or adjustment of the data received. The only data validation consists of an automated 'logical control' procedure that is performed when the individual case records are inputted into the electronic database. MONSTAT does also

²⁷ Three persons in the Judicial Council are tasked with producing statistics, a number which is considered insufficient for the workload. The staff has not received any specific training on judicial statistics.

not perform any analysis of data received, but instead processes them directly into standard tables for reporting.

2.3.4.2. Reporting and Dissemination

Standard

The number of persons convicted during one year should be reported disaggregated by crime type; age; sex and citizenship. Crime type disaggregations of persons convicted should include at least the following categories: Intentional homicide; Assault; Rape; Sexual Assault/sexual violence; Sexual offences against children; Robbery; Theft; Burglary; Domestic burglary; Motor vehicle theft; Fraud; Drug-related crime; Drug-trafficking; Kidnapping; Involvement of organized crime; Money laundering; Corruption; Trafficking in human beings; Smuggling of migrants; Drug-trafficking; Cybercrime and Crime involving racism and xenophobia.

Assessment

In its Annual Report, the Judicial Council reports mainly process information on cases filed, solved and pending. Crime type disaggregation is organized according to the twenty-three chapters of the Special Part of the Criminal Code (see Section 2.2.3.1 above for a list of these chapters). These data are not disaggregated by specific crime types, or the age, sex and citizenship of the defendants as the Judicial Council does not report information on persons charged or convicted.

For the publication of the Annual Report courts have to report the aggregated data by February of the following year. All the information collected is disseminated. The Judicial Council publishes its Annual Report in Montenegrin and English both in hard copy and on its website.²⁸ See Annex XI for a list of contents of the 2008 Annual Report.

Furthermore the Ministry of Justice can request special reports on special crime types or special topics from the courts. The topics of these reports depend on the needs of the Ministry of Justice (e.g. case backlogs; the efficiency of the judges; the structure of victimization; the number of victims of domestic violence).

Regarding Organized Crime, the Annual Report of the Judicial Council does not present any data specifically on OC. However, as mentioned above, in the Annual Report of the State Prosecutor's Office there are statistics on organized crime cases dealt with by the Special Prosecutor for Organized Crime in the Higher Prosecutors' Office, including data on verdicts in these cases. For the future, the Judicial Council plans to introduce a Section on Organized Crime in its Annual Report as well.

Selected judicial statistics collected by MONSTAT are published in the Statistical Yearbook. Not all the data collected by MONSTAT are disseminated. Some tables are produced and published only upon special requests. The Statistical Yearbook is made available to the public, both in Montenegrin and in English, both online²⁹ and in printed copies. The 2009 Statistical Yearbook was published in December 2009 and presents criminal justice data on 2008. Judicial statistics include the number of persons reported and convicted, disaggregated by age (adults and minors), sex, type of court decision, duration of confinement, type of sanctions imposed and type of criminal acts by chapters of the Criminal Code. For a full list of tables see section 2.2.4.2.

²⁸ See: <http://www.sudskisavjet.gov.me/lzvje%C5%A1tajoradu/tabid/63/Default.aspx>

²⁹ For the online versions of the 2006, 2007 and 2008 Statistical yearbooks, see: <http://www.monstat.org/EngPublikacije.htm>

2.4. Statistics on Money laundering

Standard

Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering contains a number of minimum items on which statistics should be available. A Eurostat working group is currently carrying out a pilot data-collection on a very specific list of money-laundering data based on Directive 2005/60/EC.³⁰ The list includes data on the number of Suspicious Transaction Reports (STRs), Cash Transaction Reports (CTRs), postponement orders, money laundering investigations, detected cash smuggling operations, suspicious cash activities at the borders, STRs investigated by law enforcement and STRs not investigated as well as the number of staff dedicated full time (or full time equivalent) to money laundering in the FIU and in law enforcement agencies. In addition, data on the number of charges initiated, disaggregated by the above named grounds, as well as data on the number of convictions and acquittals for such charges should be collected. Data on persons sentenced and acquitted should be broken down by “third party” and “self-laundering”, by charge, type of sentence, age, sex and nationality. Statistics on the number of freezing and confiscation procedures and the number of requests received for freezing and confiscation orders should indicate the value of frozen and confiscated assets and the amounts recovered. The primary source of the data is envisaged to be a Financial Intelligence Unit (FIU) within law enforcement authorities.

Assessment

2.4.1. Institutions involved in data collection and production of statistics

Montenegro established the Administration for the Prevention of Money-Laundering (APML, also referred to as Anti-Money-Laundering Directorate) in December 2003, shortly after the Law on the Prevention of Money-Laundering entered into force. A new Law on the Prevention of Money-Laundering and Financing of Terrorism was adopted in November 2007, in line with the *EU acquis*.³¹ The APML is the central authority for combating money-laundering and terrorist financing. It is an independent body whose administrative work is supervised by the Ministry of Finance.

According to the Act of Systematization and Organization of the APML, there are two main departments within the APML: the Department for Reception, Preparation and Analysis of Data and the Department for Control, International and Internal Cooperation.³² Furthermore there are two other departments: the Department for General Legal Activities and Public Relations; and the Department for Misdemeanor Procedures, charged with conducting first degree misdemeanor procedures.

2.4.2. Data input

The APML collects data on money laundering and terrorism financing from the reporting agencies in an electronic database. The database validates data received through a system of logical control. The crimes are defined for statistical purposes according to the articles of the Criminal Code.³³ Furthermore, processing the data on ML and TF, the AMPL often finds additional information on other related crimes, such as tax evasion or fraud.

³⁰ The set of indicators piloted by Eurostat do not (yet) represent binding EU standards but they nonetheless provide importance guidance as to evolving priorities for money laundering data within the European Union.

³¹ The Law is available at: <http://www.gov.me/eng/aspn/vijesti.php?akcija=vijesti&id=154160>.

³² The first department is divided into three sub-departments: the Department for Analytics; the Department for Suspicious Transactions; and the IT Department. The second department is divided into two sub-departments: the Department for Inspection; and the Department for Internal and International Cooperation.

The APML cooperates with the Police Administration and the Prosecution Authority which are the main law enforcement bodies concerned with the fight against money-laundering. In the police, a Special Department for the Investigation of Money-Laundering has been established.

³³ Money laundering is defined by Article 268. Article 447 defines international terrorism; Article 448 is on tacking hostages; Article 449 is on financing terrorism.

In 2005 the AMPL joined the Egmont Group with the recommendation that the Group should receive reports from entities obliged by law about cash transactions of EUR 15,000 or more and any suspicious transactions regardless of the amount of money. In Montenegro, the entities obliged by the Law on the Prevention of Money-Laundering had already started to submit reports of any cash or non-cash transaction that exceeded the amount of EUR 15,000, and suspicious transactions regardless of the amount of money in 2004.

2.4.3. Data flow

The Law on the Prevention of Money-Laundering and Financing of Terrorism of 2007 defines the reporting agencies anew. The list of the reporting entities matches the Third EU Money Laundering Directive (2005/60/EC) and therefore includes:

- a. Credit institutions
- a. Financial institutions
- b. Auditors, external accountants and tax advisors
- c. Notaries and other independent legal professionals
- d. Trust and company service providers
- e. Real estate agents
- f. Other natural or legal persons trading in goods, only to the extent that payments are made in cash in an amount of EUR 15,000 or more, whether the transaction is executed in a single operation or in several operations which appear to be linked
- g. Casinos.³⁴

In reporting information, reporting entities electronically compile and submit standard forms on individual cases. Since September 2009, the old forms (two pages) have been replaced by more thorough forms of fifteen pages length. Different reporting entities have their own forms. The forms are available electronically in Excel through a secure web page, accessible only with username and password.

Furthermore there is a questionnaire for the identification of politically exposed persons, both domestic and foreign persons.³⁵ Data received from the reporting entities are forwarded by the IT Department to the Department for Analytics. If within the cash transactions the analytics department finds some suspicious transaction cases, it forwards each case to the suspicious transactions unit.

To illustrate, the form '01-Banks' reports the following information on each transaction:

- entity (name; authorised person in the entity);
- type of report (total number of transactions reported; number of the report; changes of previous report; reasons for suspicion; which are the reasons; which indicators are given that there is a suspicion regarding money laundering and financing of terrorism);
- participants in transaction (ordinal number; name and surname/name; unique identifying number of a person or an entity);
- personal details (resident/nonresident; name; last name; unique number; place of birth; residence: place and address; ID; number of the ID; place of issuing; date of issuing);
- entities (information on the legal entity; information on politically exposed persons; information on the entrepreneur);

³⁴ EU Directive 2005/60/EC, Chapter 1, Article 2. Available on: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:309:0015:0036:EN:PDF>.

³⁵ The APML does not collect information from public officials about their assets (asset declarations). This information is collected by a special Commission determining conflicts of interest. The APML only keeps records on transactions of politically exposed persons.

- accounts (account internal or not; number of the account; bank; type of the account; owner of the account: ordinal number and name and surname/name; date of the opening of the account; currency; saldo);
- transactions (depositing cash; cash withdrawal; exchange; foreign currency incoming funds; foreign currency outgoing funds; money transfers within the country – incoming; money transfers within the country – outgoing).

The APML provides reporting entities with written rules on how to compile the forms.³⁶ Data on cash transactions exceeding the amount of EUR 15,000 are transmitted on a daily basis or at maximum within three days, while data on suspicious transactions are transmitted immediately before any further step of the transaction is taken. If the suspicion is confirmed by the APML, the transaction is frozen and the case is sent to the prosecutor.

Though the APML keeps records on cases forwarded to the prosecutor, no data on criminal procedures on money laundering (e.g. the number of indictments and number of sentences) are received by the office.

2.4.4. Data output

The Department for Analytics makes an analysis (above all graphic representations) of data received at the end of the day. Additional analysis is performed by the Department for Suspicious Transactions. About 200 to 300 CTR and STR are daily imported from the IT Department to the Department for Analytics and the Department for Suspicious Transactions. According to the 2003 Law on the Prevention of Money-Laundering, the APML must disseminate data on CTR and STR at least once a year.

An Annual Report on the results achieved by the APML is submitted to the Ministry of Finance and published within the Annual Report of the Ministry of Finance.³⁷

2.5. Statistics on Trafficking in Persons (TIP)

Standard

Based on the relevant EU Council Framework Decisions and Council Directives on trafficking in persons, as well as the United Nations Protocol to prevent, suppress and punish trafficking in person the European Commission DG-JLS has commissioned an expert report that contains recommendations for standardized, comparable data on victims, traffickers, the trafficking process and the criminal justice response to trafficking.³⁸ The data to be collected³⁹ comprise: The total number of identified victims per country per year (disaggregated by gender, age, nationality, country of birth, and type of exploitation); The total number of victims per country per year cooperating with law enforcement; the total number of traffickers per country per year (by persons arrested, persons charged (under which charges), number of investigations started, and number of investigations successfully completed (disaggregated by gender, age, nationality, country of birth and type of exploitation). In addition, statistics on the number of prosecuted and sentenced traffickers per year (by charge, disaggregated by gender, age, nationality, country of birth and type of exploitation) as well as data on sentences and on victims testifying in court and filing claims for compensation, by charge, should be collected.

³⁶ The Book of Rules and reporting forms of reporting data are available online in Montenegrin at: <http://www.aspn.gov.me/vijesti.php?akcija=rubrika&rubrika=230>.

³⁷ The 2008 Annual Report of the Ministry of Finance is available online in English at: <http://www.gov.me/files/1235488015.pdf>.

³⁸ Republic of Austria, Federal Ministry of the Interior and IOM International Organization for Migration. Guidelines for the collection of data on trafficking in human beings, including comparable indicators. February 2009. Available at: http://www.emn.at/modules/typetool/pnincludes/uploads/IOM_Vienna_AT_Mol_Guidelines%20for%20the%20Collection%20of%20Data%20on%20THB.pdf

³⁹ It should be noted that the recommendations are non-binding but represent a good starting point for the eventual development of EU standards on specific crime and criminal justice statistics on trafficking in persons.

Assessment

2.5.1. Institutions involved in data collection and production of statistics

Statistics on trafficking in human beings (THB) are collected by the Office of the National Coordinator for Combating Trafficking in Human Beings.⁴⁰ The National Coordinator coordinates the work of the governmental agencies, nongovernmental and international organizations involved in combating trafficking in persons as well as providing support to the victims as laid down in the 2006 Anti-Trafficking Action Plan.

2.5.2. Data input

Montenegro prohibits trafficking in persons through Article 444 of the Criminal Code and through Article 445, which defines the trafficking in children for adoption. Based on these definitions, the Office of the National Coordinator for Combating THB maintains three databases:

1. A database called '*Statistika*' on perpetrators and victims that was elaborated and set up by a special Tripartite Commission on THB statistics;
2. A database on victims set up by the International Centre for Migration Policy Development (ICMPD);
3. A database on perpetrators set by ICMPD. It has been recently relocated from the Police Department to the Office of the National Coordinator for Combating THB.

The Office of the National Coordinator has a network of contact points in all the relevant institutions dealing with THB, who immediately forward available information on incidences, victims and perpetrators of THB. The information of the reporting agencies is sent in the form of descriptive notes (there are no standard tables used) to the National Coordinator and is immediately inputted into the three registries. For each case, the '*Statistika*' database collects extensive information on the case, the perpetrator and the victim, including: police data on who submitted the report, personal details of the reported person (name, ID number, place of residence, occupation, year of birth and citizenship), name and date of crime; prosecution data on personal details of the victim (name, ID number, place of residence, occupation, year of birth and citizenship), the suspect, investigation and accusation; court data on proceedings of the trial (dismissal, accusation, hearings, etc.), decisions, appeals, etc. (For a full list of data collected in the '*Statistika*' database, see Annex X).

The two ICMPD databases on victims and perpetrators collect roughly the same information as the '*Statistika*' database but are a little more detailed. The two databases are installed on a separate computer that is not online and used only for storing and analyzing information on victims and perpetrators of human trafficking.

2.5.3. Data flow

The Office of the National Coordinator for Combating Trafficking in Human Beings receives data from the Police Department, the Supreme Prosecutor's Office and the Supreme Court for statistical purposes on a monthly basis. The Ministry of Education and Science and the Ministry of Health, Labor and Social Welfare also send additional

⁴⁰ The office was institutionalized in 2001. There are two persons dealing with statistics in the office. Considering the small number of cases, staff members are considered sufficient. The staff has received specific data processing training on the use of the ICMPD databases but no specific statistical training.

information that is used not for statistical but operational purposes. Reporting agencies send a descriptive note containing information on each case by email; in addition, the same information must be sent to the Office in a formal note. In order to facilitate the data flow, a contact point specifically focused on THB works within each reporting agency charged with providing data to the Office of the National Coordinator.

2.5.4. Data output

The Office of the National Coordinator for Combating Trafficking in Human Beings performs an analysis of the victim profile (e.g. most common countries of origin, age etc.). Not all information collected and analyzed by the Office is disseminated. The Office produces both annual and monthly reports, as well as five-yearly reports broken down by year. For instance, the publication 'Statistics on trafficking in human beings in Montenegro for the period between 2004 and 2009' contains information on: criminal reports by the Police Department; accusations by the state prosecution; verdicts by the courts; type of verdicts; criminal procedures in process; victims and their profile.

The brief 2009 Annual Report is published online in Montenegrin.⁴¹ It should be noted that the total number of cases in the annual reports can be different from the sum of cases in the monthly reports, since a presumed case of THB can be reclassified as not being a case of THB by prosecution after the investigation.

⁴¹ <http://www.gov.me/files/1260450349.pdf>.

2.6. Statistics on Crimes involving racism and xenophobia

Standard

While national criminal law in the EU on crimes involving racism and xenophobia is still diverse⁴², EU Member States must take the necessary measures to comply with European Council Framework Decision 2008/913/JHA on combating racism and xenophobia by means of criminal law by 28 November 2010.⁴³ In the European Union, data on police-recorded racist crime, anti-Semitic crime and crimes with extremist right wing motive are collected and reported by the European Union Agency for Fundamental Rights (FRA).⁴⁴ Data reported include both specific acts of incitement, and criminal incidents with a suspected racist, anti-Semitic and extremist right wing motive.⁴⁵ While non-binding, the reporting on these three broad crime types suggests a developing standard at EU-level that should include the following data: Annual number of police-reported 'racist crimes', 'anti-Semitic crimes' and crimes with an 'extremist right-wing motive'; annual number of person prosecuted and number of charges initiated for each of these 3 crime types; annual number of persons sentenced and acquitted from charges for each of these 3 crime types (by charge, age, sex and citizenship).

Assessment

2.6.1. Data collection on crimes involving racism and xenophobia

Crimes involving racism and xenophobia and other hate crimes are partially covered in some provisions of the Montenegrin Criminal Code – Art. 159 (1) and Art. 160 (1) - and are counted as offences under these Articles.⁴⁶ Other crimes that are committed with a specific motive may receive more severe punishments as crimes under aggravating circumstances (Art. 42 of the Criminal Code). However, there are no regular statistics collected on crimes involving racist, xenophobic or other hate motives.

⁴² Whilst exact wordings differ, national criminal law typically makes 'incitement to [discrimination], [hate], or [violence] on the grounds of [race], [colour], [national or ethnic origin]' an offence. In addition, some national laws identify racist, xenophobic, or anti-Semitic motivations as an aggravating factor in other offences.

⁴³ See Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, OJ L 328/55. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:328:0055:0058:EN:PDF>

⁴⁴ Data are collected by the FRA pursuant to Article 4(1)(a) of Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights. See http://fra.europa.eu/fraWebsite/material/pub/FRA/reg_168-2007_en.pdf

⁴⁵ See, for example, FRA, A Comparative Overview of Findings from the RAXEN National Focal Points Reports 2001-2004, Summary Report, at p.27. Available at: <http://fra.europa.eu/fraWebsite/material/pub/comparativestudy/CS-RV-05-SUM.pdf>

⁴⁶ Art. 159 (1): *Anyone who, due to national affiliation or affiliation to an ethnic group, race or confession, or due to absence of such an affiliation or due to differences in political or other beliefs, sex, language, education, social status, social origin, property or other personal status denies or restricts the rights of man and the citizen prescribed by the Constitution, laws or other regulations or general enactments or recognized by international treaties or, on the grounds of such differences, grants privileges or exemptions, shall be sentenced to imprisonment not exceeding three years;* Art. 160 (1): *Anyone who prevents other persons to express their national or ethnic affiliation or culture, shall be sentenced to a fine or imprisonment not exceeding one year*

3. International Reporting of crime and criminal justice data



3.1.1.1. Reporting of data at European level

Standard

At the EU level, basic crime types on which data should be reported to Eurostat include total crime, homicide, violent crime (comprising physical assault, robbery and sexual offences), robbery, domestic burglary, theft of a motor vehicle, and drug trafficking. Within the confines of national criminal law, the crime classification scheme used should be aligned so far as possible with definitions applied by Eurostat. In addition, specific indicators on crime involving racism and xenophobia, money laundering and trafficking in persons are under development at the European level.⁴⁷

Assessment

As a potential EU candidate country, Montenegro has been covered by Eurostat's data collection efforts in the field of crime and criminal justice since 2009. In the latest published edition of *Statistics in Focus on Crime and Criminal Justice* (Nr. 36/2009), police data on total crime, homicide, violent crime, robbery, theft of a motor vehicle and drug trafficking are reported by Eurostat. No figures on domestic burglary and police officers are provided. However, the reported data on violent crime and robbery are higher than comparable figures provided in the Annual Report of the Analytical Unit of the Police Directorate.

According to the metadata supplied to Eurostat, data on violent crime include offences that are not necessarily related to violence, namely: theft, serious theft and crimes against sexual freedom. Similarly, data on robbery include theft and serious theft. No other metadata are provided.

Data on crimes involving racism and xenophobia are only available for Art. 159 (1) and Art. 160 (1) of the Criminal Code (see Section 2.6). Data on trafficking in persons are available at the State level from the Office of the National Coordinator on THB. Data on money laundering and the financing of terrorism are available from the Montenegrin FIU.

3.1.1.2. Reporting of data at UN level (CTS)

Standard

The United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (UN-CTS) is now in its twelfth edition, covering the year 2009. The UN-CTS is implemented by UNODC and requests all UN Member States to supply standardized data on crime and criminal justice collected by police, prosecution, courts and penitentiary institutions. Differences between the crime classification scheme used and definitions applied by the UN-CTS should be clearly identified.

Assessment

⁴⁷ It should be noted that the proposed indicators for these three crime types are non-binding but nonetheless provide importance guidance as to evolving priorities for crime data within the European Union.

Montenegro provided data for the 10th UN-CTS covering the years 2005-2006 (police data only). Montenegro also submitted comprehensive data for the 11th UN-CTS related to all parts of the questionnaire (police, prosecution, courts, prisons) in December 2009. A preliminary analysis of the data suggests that some categories of data were incorrectly filled into the questionnaire and need to be revised.⁴⁸

3.2.1. Coordination

3.2.1.1. Focal point for crime and criminal justice statistics

Standard

International standards for data collection on crime and criminal justice recommend the designation of offices or bodies responsible for the coordination of data collection at the country level with a view to improving cooperation with the UN.⁴⁹ This could be achieved through the establishment of a network of national contact points for crime and criminal justice statistics. The network should include contact points in national statistical offices, law enforcement, prosecution, courts and national penal administrations. Internal coordination of data collection at the national level, including through the possible use of a single contact point is explicitly encouraged.⁵⁰

Assessment

Montenegro has a central analytical unit in the Department for Planning, Development and Analysis within the Police Directorate that is responsible for collecting and compiling police crime statistics on the national level. Regarding criminal justice data from prosecutors, the Supreme State Prosecutor compiles data from all prosecution offices in Montenegro and issues an Annual Report. Regarding courts data, the Judicial Council is in charge of the production of the Annual Report on the work of the courts on the basis of the data collected from all courts by the Supreme Court. In addition, the Statistical Office MONTSTAT is charged with collecting and compiling data from each individual prosecution office and each (first instance) district court.

⁴⁸ For example, according to data provided directly by the Supreme Court, data on convictions provided for 2008 in the UN-CTS are in fact referring to the total for the six year period 2003-2008.

⁴⁹ Ecosoc Resolution 27/2007, para. 1

⁵⁰ Commission on Crime Prevention and Criminal Justice, Eighteenth session, Vienna, 16-24 April 2009, Conclusions and Recommendations, para. 9

4. Migration

4.1.1.1. Institutions responsible for data collection and management

The Group for Migration, Visas and Readmission of the Department for Internal Administrative Affairs within the Ministry of Interior and Public Administration of Montenegro is responsible for keeping records and statistics on the residence of foreigners whose stay exceeds 90 days, asylum seekers as well as foreigners and citizens readmitted to Montenegro. The Police Directorate is in charge of registering entries and exits to Montenegro as well as of recording stays of less than 90 days.

4.1.1.2. Data on stocks and flows of immigrants and emigrants

Standard

According to Regulation (EC) No 862/2008 on Community Statistics on Migration, all Member States must report annually on migration stocks and flows. Thus, a system for recording and monitoring such stocks and flows should be in place, including through general population registers, through the generation of unit records for registration of immigrants and emigrants or through registers of residence permits. In particular, Member States should report the stock of foreigners and foreign-born in the country as well as the flow of immigrants and emigrants to and from the country (with a usual residence in the country of more than 12 months) broken down by a number of characteristics (sex; age group; citizenship; country of birth; and where possible, country of previous residence or country of next residence).

Assessment

The current population registration system of Montenegro is not yet fully centralised and does not allow the production of statistics on immigration or emigration flows, nor on citizenship or country of birth of the resident population stock. According to the Law on the Central Population Registry of 2007, the registration of foreigners in the Central Population Registry should be implemented in 2010. The last census was carried out in 2003, when Montenegro was still part of the State Union of Serbia and Montenegro. Both Montenegrin citizens and foreigners residing for over 12 months in the country have been enumerated.⁵¹ There was no update of the foreign population enumerated in the census since then. Thus, at present only the residence permits database can supply basic statistics on foreigners residing in Montenegro.

The Border Police keeps records and statistics on the number of entries and exits at the border crossings points. In total, there are 28 Border Crossing Points (BCPs) in Montenegro, of which 17 are currently technically equipped with optical passport readers that are connected to the online computer system of the Police Directorate. In these 17 BCPs, data of persons entering and exiting are automatically recorded and stored from the information contained in the passport. In the other (smaller) BCPs, records of persons entering and exiting are made manually. During the high tourist season in summer, border controls are performed only selectively and records are kept only on the number of persons entering and exiting. Aggregate statistics on entries and exits are then forwarded to the MoI monthly. While the statistics provide some indications on the volume of cross-border movements, the large discrepancies between total entries and exits recorded make the system a poor indicator of total (or net) migration flows.

⁵¹ In addition, during the 2003 census, data on Montenegrin citizens staying abroad for more than 12 months were collected according to the statements of their family members in Montenegro.

4.1.1.3. Residence permit data

Standard

According to Regulation (EC) No 862/2008 on Community Statistics on Migration, all Member States should report the stock of valid residence permits at the end of each year (by citizenship; type; and duration), the stock of valid long-term residence permits at the end of each year (by citizenship), the number of new first-time residence permits (by type; duration; and citizenship) and the number of changes in residence permits (by type; duration; and citizenship).

Assessment

Foreigners who need a visa to come to Montenegro and who wish to reside in Montenegro for more than 90 days have to apply for a first temporary residence permit (with validity of up to one year) at one of the Diplomatic Missions and Consular Posts (DMCPs) abroad. The forms are then forwarded to the Mol. Alternatively, foreigners who do not need a visa, or who already live in the country on a temporary residence permit, can apply at one of the 21 administrative offices and district units for administrative-internal affairs of the Ministry of the Interior (*'filiala'*) located in the municipalities across the country. In both cases, the foreign applicant has to fill in a paper form (Form 1 TR), providing details of her or his unique citizen number (or passport number); name; surname; maiden name; date of birth; place of birth; sex; country of birth; citizenship; marital status; degree and type of qualification; occupation and purpose of stay. Both the applications made abroad and those made in country are then submitted to that municipal office where the foreigner wants to reside, which is responsible for the decision and the issuing of the residence permit.⁵²

Foreigners with at least 5 years of residence in Montenegro on temporary residence permits can apply for a permanent residence permit at that municipal office where they want to reside by submitting another paper form (Form 4 PR).⁵³ The personal details to be given are the same as for the temporary residence permit plus the address in the country and the unique citizen registration number of the head of the household.

Once an application for a temporary or permanent residence permit is approved, the foreigner receives a residence stamp into his passport.⁵⁴ At this point, the data (only data of positive decisions) are entered from the paper form to an online electronic database of the Mol as a unit record with a unique file number. Permit extensions are linked with the original record and a note is made whether the temporary permit issued is an extension or a first-time permit. The data are thus continually updated and the statistics are available on a daily basis in a central database at the Mol, which contains all the details of each unit record submitted.

Despite the existence of these data at the Mol, very few data on residence permits have been published so far. The Mol reports regularly to the government on the status of foreigners in the country, which then reports further to parliament. The chapter on border controls within the Annual Report of the Analytical Unit of the Police Directorate provides some data on how many temporary and permanent residence permits have been approved. It is planned to publish more data on residence permits on the website of the Mol in the near future.

In parallel to the internal recording and electronic reporting system of the Mol, there is a second system for data collection on residence permits that goes through the Statistical Office MONTSTAT. For this purpose, the 21 administrative offices of the Mol

⁵² The Mol acts as the second instance for appeals against negative decisions by the municipal district office (*'filiala'*).

⁵³ Foreigners can appeal against negative decisions of the Mol at the Administrative Court.

⁵⁴ A new tamper-proof residence permit sticker is currently under consideration

send unit records on approved residence permits monthly to the central level of the MoI, which forwards these paper forms to MONTSTAT. To send the data, the municipal offices use a special unit record form (Form MM1), which contains a number of personal details of the applicants such as sex; age; citizenship; education; and the municipality the applicant is residing in. To date, the information has not been published in the Statistical Yearbook of MONTSTAT.

4.1.1.4. Updating of records and registers

Standard

In order to be able to produce update and accurate data fulfilling Regulation (EC) No 862/2008 on Community Statistics on Migration, data on change of residence and other important status changes (e.g. extension or cancellation of residence permits) should be passed from the local to the central level at regular intervals and be used to update the migration statistics supplied to Eurostat.

Assessment

Regarding the residence permit database in Montenegro, the database of the MoI contains unit records with dates of entry and expiry. Thus, when a temporary permit expires, the record is marked to be “inactive” for the time being and will not be counted in the updated statistics. When it comes to permanent residence permits, the law prescribes that the permanent residence permit becomes invalid when the holder leaves Montenegro for more than 12 months. However, there is no automatic updating of the database when a foreigner leaves the country. Foreigners on permanent residence permits need to have a special I.D. card for foreigners, renewable every 5 years. At this point, it would be possible to compare the database on special I.D. documents with the permanent residence permit database and remove foreigners from the database if they no longer reside in Montenegro.

4.1.1.5. Data on the prevention of illegal migration

Standard

According to Regulation (EC) No 862/2008 on Community Statistics on Migration, all Member States should report statistics on the prevention of illegal entry and stay. These statistics should include the number of persons refused entry at the border (by age; sex; grounds for refusal; citizenship of persons refused; and type of border: land, sea or air), the number of persons found to be illegally present in the territory under national law (by age; sex; citizenship; grounds for apprehension; and place of apprehension), the number of persons issued with an order to leave the territory (by age; sex; citizenship; and reason for the order), and the number of persons who actually left the territory following an order to leave (by age; sex; citizenship; and reason for the order).

Assessment

Statistics on the prevention of illegal migration are collected by the Sector for Foreigners and the Prevention of Illegal Migration within the Department for Border Police in the Police Directorate.

Records on detected events of illegal border crossing and illegal stay are first made by the sub-unit of the Border Police within the district police. When a person, who has illegally crossed the border is apprehended, the Inspector of the Border Police fills in a standard form (unit record) with data on the person apprehended, including name; surname; I.D. number; citizenship; sex; and date of birth. The unit record is kept at the district police level. As illegal border crossing is considered a misdemeanour⁵⁵ in

⁵⁵ Illegal border crossing and illegal residence is generally not a crime but a misdemeanour in Montenegro. However, unlawful border crossing can be a crime if done by an armed person or by using force or if transferring other people unlawfully across the border.

Montenegro, a report of the event is filed to the district misdemeanour court, who decides on the sentence for the transgressor. In addition, information on the incident, including information on measures taken, is reported in the report on daily events to the Sector of the Border Police within the General Police Directorate on a daily basis.⁵⁶

Statistical tables with data on border-related events are forwarded from the district police to the Sector for Border Police monthly. These data include: visas issued at the border; applications for stays of less than 90 days; persons discovered by search warrants (e.g. Interpol and internal warrants); persons with criminal records discovered; number of forged documents discovered; amounts of drugs seized; instances of human trafficking discovered; number of rejected entries by citizenship; persons apprehended for illegal border crossing at the green border and persons apprehended for illegal border crossing at official BCPs by citizenship; detected illegal stays; foreigners arrested; deceased foreigners; foreigners involved in traffic accidents; crimes of which the victims were foreigners (all by citizenship).

According to the law on foreigners, a special database is kept by the Sector for Border Police on persons who have been ordered to leave the country, including the deadline set for leaving the country and the date until when re-entry to the country is prohibited. However, data on persons who actually left the country only refer to persons who were deported (in all other cases, the Border Police would not normally know whether a person ordered to leave has actually left the country on his own).

The Sector for Border Police compiles the data from all subunits for Border Police located in 7 district police units (plus one for maritime borders) and sends a report to the Analytical Unit of the Police Directorate every month. Annual statistics on the prevention of illegal migration and other activities of the Border Police are included in the chapter on border controls in the Annual Report of the Analytical Unit of the Police Directorate.⁵⁷ In addition, data on illegal migration are also provided to ICMPD and are included in the annual Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe.

The Sub-Unit for Readmission at the Group for Migration, Visas and Readmission of the Department for Internal Administrative Affairs within the MoI is responsible for readmission issues and keeps statistics on the number of received requests for readmission of Montenegrin citizens and for third country citizens in regular readmission procedures. Data are kept manually in a special register on the number of requests made; requests approved; request rejected; and requests dismissed. Unit records of persons subject to readmission requests are kept manually and include data on sex; year of birth; citizenship and the country sending the request. In addition, records are made of persons to be readmitted and of readmission requests made by Montenegro to countries of origin and to third countries. There are no statistics on the number of persons who have actually been readmitted following readmission requests available.⁵⁸

Statistics on readmissions are reported monthly (only total numbers) and annually to the Minister of Interior (disaggregated by country sending the request; sex; and age).

⁵⁶ In this way, the Sector for Border Police can initiate required actions, such as the notification of the consular department for foreigners arrested.

⁵⁷ The Annual Report contains data on how many persons and vehicles were controlled at the border, how many falsified documents were detected, how many illegal crossing were prevented (by citizenship), how many people wanted by other states were detected and how many people were deported.

⁵⁸ The reason for this gap in the data is that Montenegrin citizens returning with their own passports to Montenegro may not be registered upon return as there is no special request for consular assistance with travel documents or return procedures. However, the BCP of Podgorica Airport does keep a special register for readmitted persons, who were received upon arrival at the airport.

At the moment, there is no further dissemination of data. The building of an electronic database on readmissions is a very high priority of the Sub-Unit for Readmission and technical assistance in this task is requested.

Data on the prevention of illegal migration are also shared between the respective Ministries of Interior of Albania, BiH (Ministry of Security), Croatia, Montenegro, The former Yugoslav Republic of Macedonia and Serbia. In a Memorandum of Understanding of 20 November 2008, the Ministries of Interior (MoS for BiH) agreed to share statistical data on a monthly basis, through a designated National Contact Point, on the number of persons

- detected crossing the border illegally outside a border crossing point;
- detected crossing the border illegally at a border crossing point;
- detected as facilitators;
- detected staying illegally in the country;
- who have been refused entry into the country;
- as well as the number of submitted asylum requests (inland and at the border) and the number of detected false or falsified travel documents according to their type and country of issuance at border crossing points;

All of these statistics are to be disaggregated by citizenship. Data are exchanged electronically, in the form of templates and in English language.

4.1.1.6. Data on facilitated illegal migration

Standard

The Eurostat data collection on the prevention of illegal migration (CIREFI database) further collects data on the number of apprehended facilitators by citizenship and the number of apprehended facilitated aliens (by citizenship; and type of border entered: land, sea or air). These data should be supplied by border guard services or the responsible Ministries of Interior to CIREFI on a monthly basis.

Assessment

The smuggling of migrants is a criminal offence in Montenegro according to Article 405 of the Criminal Code. Therefore, migrant smuggling falls within the competence of the Criminal Police of Montenegro and, based on the available evidence, data on migrant smugglers (facilitators) are kept by the Criminal Police.

When the Border Police are the first to discover evidence of migrant smuggling, they will take the necessary measures to secure the evidence and perpetrator and inform the criminal police at the district police level. The Criminal Police will make a record in the Crime Registry at the district police level and report the statistics on migrant smuggling together with other crimes detected to the Sector for Criminal Investigations (All crimes are also reported to the Analytical Unit of the Police Directorate on a monthly basis). In addition, the district Border Police reports the incident to the Special Department for fighting human trafficking and migrant smuggling within the Criminal Police and to their own Sector for Border Police.

Regarding public dissemination, data on migrant smuggling are included in the chapter on border controls within the Annual Report of the Analytical Unit of the Police Directorate. In addition, data on illegal migration are also shared on the regional level according to the MoU with ministries of interior and are also provided to international organizations, such as ICMPD for inclusion in the annual Yearbook on Illegal Migration, Human Smuggling and Trafficking in Central and Eastern Europe.

There are no data recorded on the number of smuggled migrants (facilitated aliens).

5. Asylum Statistics

5.1.1.1. Institutions responsible for data collection and management

The Office for Asylum within the Department for Internal Administrative Affairs within the Ministry of Interior and Public Administration of Montenegro is responsible for asylum issues and collects data on asylum applications and decisions in both the first and second instance proceedings.

5.1.1.2. Data input

Standard

According to Regulation (EC) No 862/2008 on Community Statistics on Migration, all Member States must report annually on stocks and flows of asylum-seekers in their countries. Thus, a system for recording and monitoring such stocks and flows should be in place. As a good practice, the recording of individual asylum claims in unit records (person records), containing clear details of case disposition and type of final decision on the application, are preferable. Such recording practices allow the linking of decisions in first and subsequent instances and the calculation of average processing times and other performance indicators.

Assessment

When a foreigner comes to a border control post (BCP) or any police station within the country, he or she can express the intention to apply for asylum to the authorities. The potential applicant is then provided with an information brochure and instructions on how to apply for asylum at the Office for Asylum, which is located in the capital, Podgorica.

At the Office for Asylum, a file is opened and a unique identifier is assigned to the file that stays with the asylum-seeker for the duration of the asylum procedures. From the files, data are extracted as person-based records on each asylum applicant that are updated monthly as the asylum proceedings progress. The person-based records (one line per person in an Excel spreadsheet) contain details on the date of application; sex; citizenship; whether the person is an adult, a minor or an unaccompanied minor; the decision taken in first instance (refugee status granted, subsidiary protection granted, rejected, other) and in second instance (rejected, referred back to first instance) and information on who received the asylum request (the Office for Asylum, the Border Police or other). From the table it is also possible to extract the number of persons with open applications. The current provisional data collection is expected to be integrated into the central online database of the Mol at a later stage and will include unit records complete with fingerprints and digital photo.

5.1.1.3. Stock and flow data

Standard

According to Regulation (EC) No 862/2008 on Community Statistics on Migration, all Member States should annually report the stock of persons with open asylum applications at the end of the year (by sex; age; and citizenship), the number of persons submitting first time applications (by sex; age and citizenship) and the number of decisions on asylum applications (by sex; age; citizenship; and type of decision). In addition, the United Nations High Commissioner for Refugees collects data on the number of recognised refugees with positive asylum decisions living in the country (by type; and year of decision).

Assessment

All the required records on asylum applications and decisions are made and compiled by the Office for Asylum, with the exception of data distinguishing between first-time and repeat applications. Thus, data are easily available for reporting and dissemination.

Data on asylum applications and decisions are regularly compiled in one large Excel table that is shared only internally. Monthly updates of the summary table are sent automatically to the UNHCR. Data are also made available on request to the EC, to media and other interested parties. So far, no data on asylum have been published by the MoI directly.

6. Visa Statistics

6.1.1.1. Institutions responsible for data collection and management

The Sector for Consular Affairs and Diaspora at the Ministry of Foreign Affairs (MFA) collects data on visas requested, issued and refused by one of the 22 Diplomatic Missions and Consular Posts (DMCPs) of Montenegro and other authorized DMCPs (of Serbia and Bulgaria).

In addition, the Border Police under the Police Directorate keeps records of visas issued at Border Control Points (BCPs) and compiles statistics on visas requested abroad and forwarded for decision to the Border Police.

6.1.1.2. Visa-related indicators

Standard

Article 17 of Regulation (EC) No 767/2008 on the Visa Information System (VIS) is entitled 'Use of data for reporting and statistics' and provides a list of data items to which competent visa authorities shall have access for the purposes of reporting and statistics. While not strictly binding EU *acquis* yet, a possible list of visa-related indicators that countries must regularly report on, includes the following data items: stock of persons with valid visa (by citizenship and type and duration of visa), number of visa applications (by citizenship and country of application) per year, number of visas granted (by citizenship, country of application, type and duration of visa) per year, and number of visas refused (by citizenship, country of application, type and duration of visa and reasons for refusal). The recording of individual visa applications in unit records (person-based visa application records) is preferable as this enables decisions on visa applications by the same person to be linked.

Assessment

Visas for entering Montenegro can be obtained at the one of the 22 Diplomatic Missions and Consular Posts (DMCPs) that Montenegro has in other countries, as well as in DMCPs of Serbia and Bulgaria with which Montenegro has signed a special cooperation agreement (for countries where there is no Montenegrin diplomatic or consular mission) and in some special cases at the border. There are generally four types of visas that can be issued: airport-transit visa (A), transit visa (B), short stay visa (C) and long stay visa (D). Visas can only be issued at the border for exceptional humanitarian, personal or professional reasons. In these cases, the police can issue a visa for one short stay (C visa) including one entry and stay up to 15 days, a transit B visa up to 5 days or a transit B visa to sailors or groups of sailors.

The first step for obtaining a visa is the filling of the application form, which demands the following information: surname, given name, Father and mother's name, date and country and place of birth, current citizenship, original citizenship, sex, marital status, type of passport (information about the passport, passport number, who issued it, when, where, duration of validity), ID number (optional), question whether there is a permission to return to the country of origin if applicable, occupation, employer, main destination, other visited countries, transit information if applicable, type of visa requested, number of entries, duration of stay, purpose of travel, contact person in Montenegro, address of stay in Montenegro, money funds available for stay, date of arrival and departure, means of transport, information on spouse and children, address and phone contact.

In addition to the filled-in application form a person wishing to obtain a Montenegrin visa needs to present the following documents: passport, photograph, letter of guarantee, proof of stay, proof of sufficient means of subsistence and a health insurance. All these documents must be submitted in person.

The DMCP (Montenegrin, Bulgarian or Serbian) who receives the visa application sends the information on the request to the Montenegrin Police Department, Sector of the Border Police, requesting an opinion on the issuance of the visa. The Border Police performs a check on the person, and then forwards a recommendation to the DMCP, after which the visa is issued or denied. However, in some cases, the DMCPs do not formally request such an opinion to issue a visa and in some cases they do not follow the recommendation of the Border police.

There are two different data collections on visas requested, visas authorized or rejected and visas issued. The first data collection is within the Border Police, which compiles statistics on visas issued and denied at the border. In addition, the Border Police keeps records on the visas that were forwarded to them for authorization by the DMCPs and the number of positive and negative recommendations to issue the visas (As noted these numbers can deviate from the actual number of visas issued and refused abroad as there is no feedback from the DMCPs on the actual number of visas issued upon recommendation from the Border Police).

The information on visas collected by the Border Police is currently kept on paper only and does not contain a unique identifying number of the applicant through which subsequent visa applications could be linked. Statistical information kept by the Border Police is published in an internal monthly report. The report includes information on the number of visas authorized and refused, the countries in which the application was made and the citizenship of the applicants. Statistics on visas issued at the border are also published in the Annual Report of the Analytical Unit of the Police Directorate.

The Sector for Consular Affairs and Diaspora at the Ministry of Foreign Affairs (MFA) also receives aggregate data on visas requested, issued and refused by one of the authorized DMCPs (of Montenegro, of Serbia or Bulgaria) in their monthly reports sent to the Ministry of Foreign Affairs. These reports are internal in their character, are in narrative form and are not standardized. The only two information items that they always contain are the number of visas issued and refused. There is also no standard registry or data base within the Ministry of Foreign Affairs that compiles data from these reports on a regular basis. There are few data on visas issued by the DMCPs published. In the past statistics on visas issued by DMCPs have only been provided upon justified request to international organizations on an ad-hoc basis.

7. Victimization Surveys

7.1.1.1. The role of crime victimization surveys

Standard

Both international and EU standards strongly recommend the regular or periodic conduct of standardized and comparable crime victimization surveys as a complement to police-recorded statistics. These surveys should be government-led and should ideally be implemented by an independent National Statistical Office. International standards suggest that crime victimisation surveys should aim to produce both *prevalence* and *incidence* estimates of a number of key survey-based indicators. These include 12-month victimization by crime type for: household burglary; theft of vehicles; other theft; robbery; physical assault; and sexual offences.

Assessment

The Center for Democracy and Human Rights (CEDEM) carried out a household survey in Montenegro in 2003, which asked respondents (1,199 persons were interviewed) about their opinion concerning the police. Similarly, in October 2008 Gallup started a multi-year survey project, *the Balkan Monitor*, in which respondents were also asked about their attitude towards the police and judicial system. Finally, the Montenegrin branch of the National Democratic Institute (NDI) carried out a survey in 2008, that also asked questions on respondents' trust in institutions, including trust in the police and the courts.

The National Statistical Office of Montenegro (MONSTAT) has not carried out any crime victimization survey in Montenegro to date.

Annex I

Crime Registry of the Police (KU)

| | |
|---|---|
| 1. Number of the case (ID number) | |
| 2. When the file is reported to the prosecutor (date) | |
| 3. Who filed the report | |
| Section on crime | 4. Ordinal number |
| | 5. Legal name of the crime according to the article of the Criminal Code |
| | 6. Date of the crime |
| 7. Information on the victim (name, surname, address) | |
| Compiled if known perpetrator/s | 8. Ordinal number |
| | 9. Name, surname, father's name |
| | 10. Place and date of birth |
| | 11. Citizenship |
| | 12. Municipality where he/she lives |
| | 13. Custody when he/she was arrested (if up to 48 h) |
| | 14. Date and hour when the case is given to the investigative judge |
| | 15. Date and hour of custody |
| 16. Date and hour when the case goes to the investigative judge and person released | 16. Date and hour when the case goes to the investigative judge and person released |
| | 17. Date when file is given to the investigative judge if in custody or to prosecutor if not in custody |
| | 17. Date when file is given to the investigative judge if in custody or to prosecutor if not in custody |
| 18. Name of the body to whom the police have forwarded the file | |
| On the request of the public prosecutor for collecting additional information | 19. Date when the request was received by the police |
| | 20. Name of the public prosecutor and date of the request when it was issued |
| | 21. Date of the ending of the procedure |
| On the request of the public prosecutor for additional investigation | 22. Date of receiving of the request |
| | 23. Name of the public prosecutor and date of the request when it was issued |
| | 24. Date of the ending of the procedure |
| Checking of investigative action by the investigative judge | 25. Date of receiving the request of checking |
| | 26. Name of the investigative judge, number and date of the order of the judge |
| | 27. Checking of the investigative action |
| | 28. Date of ending of the investigative action |
| Reply on request | 29. Date of the reception |
| | 30. Name of the body requesting |
| | 31. Number and date of the file |
| 32. Decision of the public prosecutor upon the file submitted by the police | |
| 33. – 36 Date when the record is sent to the prosecutor | |
| 37. Remarks: which police department is in charge of the record | |

Annex II

Pilot forms for data recording by the police

| | | | |
|---------------------------|-----------------------------------|--|--|
| <i>- Organized crime:</i> | Ordinal number | | |
| | KU number and date | | |
| | Police unit/subunit | | |
| | Qualification of the crime | | |
| | Date/hour of the occurrence | | |
| | Place of the occurrence | | |
| | Method and time of the discovery | | |
| | Methods of execution of the crime | | |
| | Status of the perpetrator | Unknown | |
| | | Known – unique identifying number of the citizen | |
| | | Minors | |
| | | Has committed crime before | |
| | | Sex | |
| | | Citizenship | |
| | Special report (date and number) | | |
| Material damage | | | |
| Measures taken | People in custody | | |
| | Heard people (citizens, suspects) | | |
| Remarks | | | |

| | | | |
|----------------------------------|---|--|--|
| <i>- General crime</i> | Ordinal number | | |
| | KU number and date | | |
| | Police unit/subunit | | |
| | Qualification of the crime | | |
| | Date and hour of the occurrence | | |
| | Place of the occurrence | | |
| | Method and time of the discovery | | |
| | Methods of execution of the crime | | |
| | Status of the damaged (legal entity, sex, age, citizenship) | | |
| | Material damage | | |
| | Status of the perpetrator | Unknown | |
| | | Known – unique identifying number of the citizen | |
| | | Minors | |
| | | Has committed crime before | |
| | | Sex | |
| | Citizenship | | |
| Special report (date and number) | | | |
| Measures taken | People in custody | | |
| | Heard people (citizens, suspects) | | |
| Remarks | | | |

| | | | |
|---------------------------|--|----------------------------|--|
| <i>- Commercial crime</i> | Ordinal number | | |
| | KU number and date | | |
| | Police unit/subunit | | |
| | Qualification of the crime | | |
| | Unique identifying number of the citizen who committed the crime | | |
| | Method and time of the discovery | | |
| | Date of the occurrence | | |
| | Place of the occurrence | | |
| | Special report (date and number) | | |
| | Status of the perpetrator | Unknown | |
| | | Citizenship | |
| | | Has committed crime before | |
| | | Minors | |
| | | Sex | |
| | Material damage | | |
| | Taken away goods | Type and quantity | |
| | | Value | |
| | Legal entity that is the object of the control | | |
| | Status of the damaged | Legal entity | |
| | | Person | |
| Sex | | | |
| Minor | | | |
| Citizenship | | | |
| Measures | Custody | | |
| | Heard people (citizens, suspects) | | |
| Remarks | | | |

Annex III

Crime registry 'KT' of the state prosecutor's offices for known adult perpetrators:

1. Ordinal number
2. Date of reception
3. Who delivers the report (name and surname, unique number of a citizen, place of residence, telephone number and the date of report)
4. Who submits the report
5. Reported person (ordinal number; name and surname, unique number of a citizen, place of residence occupation, year of birth and citizenship)
6. Custody (from-to)
7. Person that suffers damage and the amount of the damage in euro
8. Type of crime and the date it was committed
9. Requested gathering of additional information (from whom)
10. Requested emergency investigative actions (presence of the state prosecutor – circle)
11. Requested other investigative actions
12. Criminal prosecution delayed (by order; settlement; decision)
13. Report rejected
14. Proposal for initiating charges (the most serious crime; other crimes)
15. Direct changes (basic crime; other crimes)
16. Request for investigation to the initiative judge
17. Rejection of the request
18. Broadening the investigation

19. Additional investigation
20. Participation of the state prosecutor (hearing of the charged person and witnesses; crime scene investigation and specialized investigation)
21. Interruption of the investigation
22. Aborting investigation (Article 261 of the Law on criminal proceedings)
23. Aborting investigation because of council decision (Article 262 of the Law on criminal proceedings)
24. Solved other way
25. Case given to another state prosecutor
26. Charges (basic crime; other crimes);
27. Abortion of the proceedings after charges were brought or charging proposal submitted
28. Date of the main hearing (according to the charges; according to the charging proposal)
29. First degree conviction or decision
30. Crimes for which the charges were partially rejected
31. Crimes for which the partially acquittal verdict was passed

Crime registry 'KTM' of the state prosecutor's offices for minors:

1. Ordinal number
2. Day of reception
3. Who delivered the report
4. Who submitted the report
5. Reported (ordinal number; surname and the name, unique number of a citizen, name of the parent, date of birth and residence)
6. Person that suffered damage
7. Article of the Criminal Code and the date of act
8. Needed information (date and to whom it was submitted; date of the reception of the information)
9. Rejection (child; estimation that rejection would serve best the purposes; Article 9, paragraph 1 of the Criminal Code; upbringing or other reasons)
10. Preliminary procedure (date of the sending of request to initiate preliminary procedure; date of the reception of the ended preliminary procedure; date of the request for additional actions in preliminary procedure; duration of the preliminary procedure)
11. Decision in preliminary procedure:
 - Abortion of the procedure (estimation that rejection would serve best the purposes; Article 9, paragraph 1 of the Criminal Code; upbringing or other reasons; decision about aborting the procedure)
 - Sanction proposal (punishment; special department; out of special department; ; security measure; duration since the report till the decision was brought by the state prosecutor)
12. Procedure before the court (court decision: date and content; appeal, who appealed, the reason and the result of the appeal; date and content of the second degree decision; later amendments to the formal decision, whose proposal)
13. Other information on the procedure (custody and its duration; placement of the minor in shelter or other similar institution – Article 487 of the Law on criminal proceedings); determination of the health condition of the minor – Article 485 of the Law on criminal proceedings); report and other case documentation sent to another prosecutor; ending date)
14. Returned crime (earlier reported as a child, how many times; earlier reported as a minor, how many times; earlier convicted, how many times; in this registry already has a number, which; evidence of the problems and incidents)
15. Remarks

Crime registry 'KTn' of the state prosecutor's offices for unknown perpetrators of the state prosecutor's offices:

1. Ordinal number
2. Date of reception

3. Who delivers the case (name of the institution, number and the date)
4. Who submits the report
5. Persons that suffers damage and the amount of the damage
6. Type of the crime (article of the Criminal Code) and the date of the act
7. Emergency investigative actions
8. Requested gathering necessary information (state prosecutor; police department)
9. Requested some investigative actions (court; police department)
10. Report rejected
11. Out of which because the deadline expired
12. Case just evidenced until the perpetrator is found
13. Deadline of how long could it stay in evidence
14. Date of the finding of perpetrator, his name and surname and the number of the KT entry sheet
15. Remarks

Crime registry 'KTr' of the state prosecutor's offices for different cases of the state prosecutor's offices:

1. Ordinal number
2. Date of reception
3. Who delivers the case (name of the institution, commercial company, place, date and number, surname, name and residence of the person delivering the report)
4. Content
5. Date of the reception of the case to (repetition of the criminal procedure; out of ordinary request for decreasing of the punishment; request for checking legality of the formal decision)
6. Opinion of the state prosecutor on the request for pardon
7. The way the case was resolved
8. Remark

Crime registry 'KTŽ' of the state prosecutor's offices for cases in second instance of criminal procedure of the state prosecutor's offices:

1. Ordinal number
2. Date of reception
3. Number of the case and the name of the second degree court
4. Number and name of the first degree court, the first degree verdict and the number and mark of the first degree prosecutor
5. Surname, name and the year of the birth of the defendant
6. Type of the crime
7. Appeal
 - state prosecutor (because the decision of the punishment, security measures and taking away property gain; other reasons)
 - defendant (because the decision of the punishment, security measures and taking away property gain; other reasons)
 - victim (because the decision of the punishment, security measures and taking away property gain; other reasons)
8. The date of the return of the case
9. The method of reaching decision by the state prosecutor (written proposal; state prosecutor withdraws the appeal (Article 395 of the Law on the criminal proceedings))

Crime registry 'KT-I' of the state prosecutor's offices for the responsibility of legal entities:

1. Ordinal number
2. Date of reception
3. Who delivered the report
4. Who submitted the report
5. Reported person (ordinal number; information for the person; information for the legal entity)
6. Victim and amount of damage

7. Type of the crime and the date of the act
8. Investigative actions
9. Postponed prosecution (by order; settlement; decision)
10. Rejected report
11. Proposal for charges (the most serious crime; other crimes)
12. Direct charges (basic crime; other crimes)
13. Request for investigation to the investigative judge
14. Rejection of the request
15. Broadening the investigation
16. Additional investigation
17. Participation of the state prosecutor (hearing of the defendant and the witnesses; crime scene investigation and specialized investigation)
18. Investigation interrupted
19. Investigation aborted (Article 261 of LCP)
20. Aborted according to council decision (Article 262 of LCP)
21. Solved in another way
22. Given to another prosecutor
23. Criminal charges (basic crime; other crimes)
24. Abortion of the procedure after charges were brought
25. Date of the main hearing (according to the charges; according to the proposal)
26. First degree verdict or decision
27. Crimes for which the charges were partially dismissed
28. Crimes for which there was a partial acquittal decision
29. Appeal of the state prosecutor (submitted for the punishment only; submitted for other reasons; accepted; punishment as a reason; rejected; punishment as a reason)
30. Second degree verdict or decision
31. Common returned crime
32. Special returned crime
33. Proposal for security measures
34. Decision on proposal for security measures
35. Other information
36. Remarks

Crime registry 'KTŽ-I' of the state prosecutor's offices for responsibility of the legal entities in second degree procedure:

1. Ordinal number
2. Date of reception
3. Number of the case and the name of the second degree court
4. Number and the name of the first degree court, first degree sanctions and first degree prosecutor
5. Name of the legal entity, surname and the name of the responsible person
6. Crime, name and the article from the Criminal Code
7. Appeal (because of the punishment, security measure and taking away property gain; for other reasons; because of the punishment, security measure and taking away property gain; for other reasons)
8. The date of the return of the case
9. The way the prosecution was deciding (written proposal; aborting the appeal by the prosecutor)
10. The way the court was deciding (not public session of the court council, date; public court session, date)
11. Second degree decision (first degree decision confirmed; first degree decision changed because of the breach; punishment increased; punishment decreased; changed measure of security and measure taking away property gain; first degree decision annulated because the facts were not truthfully determined; first degree decision annulated because Law on Criminal procedure was not respected)
12. Other information

Annex IV

Standard table on 'Criminal Offences against state bodies' used by Prosecutor's Offices

| | |
|---|---|
| - Unsolved reports from the previous period | |
| - Reports received in reporting period | |
| - Total reports in progress | |
| - Who submitted the criminal report | |
| - Investigative actions | |
| - Requested information | |
| - Solved reports | Dismissed |
| | Suggestion for accusation |
| | Direct accusation |
| | Request for investigative actions |
| | Reports given to other bodies |
| - Unsolved reports | Total number of unsolved reports |
| | In prosecution |
| | With other bodies |
| - Unsolved investigations from previous period | |
| - Solved investigations | The procedure was stopped |
| | The procedure was interrupted |
| | Investigation given to others |
| | Accusations |
| | Unsolved at the end of reporting period |
| | Total number of accusations in the reporting period |
| | Unsolved accusations from the previous years |
| | Accusations in progress |
| - Verdicts | Imprisonment |
| | Fine |
| | Probation |
| | Court notice |
| | Work in public interest |
| | Total |
| | Acquittals |
| | Dismissals |
| | - Security measures |
| Compulsory psychiatric treatment but patient free | |
| Prohibiting of driving motor vehicles | |
| Taking away objects | |
| Removal from the country (foreigners) | |
| - Accusations given to others | |
| - Unsolved accusations from the previous reporting period | |
| - Dismissal after accusation | |
| - Total number of appeals | |
| - Appeals | Out of which because of the punishment |
| | Because of other reasons |
| | Appeals approved |
| | Because of the punishment |
| | For other reasons |
| | Rejected |
| | Because of the punishment |
| | For other reasons |
| Unsolved appeals at the end of the reporting period | |
| - Remarks | |

Annex V

Form 'SK-1' on 'An adult against whom the procedure upon criminal report and preliminary hearing is completed' contains the following information:

- number of the entry;
- number of statistical form;
- A. Information about the person committing the crime (at the time of the crime):
 1. Last name
 2. Gender
 3. Name
 4. Date of birth
 5. Whether the person committing the crime is known or unknown
- B. Information on the crime (in case of several crimes only about the most serious one):
 1. Legal name of the crime
 2. Article; paragraph; sub-paragraph
 3. Related to other crime
 4. Article; paragraph; sub-paragraph
 5. Which Law was enforced
 6. Year of the commitment of the crime
 7. Was there any property damage (y/n)
 8. Who filed the report (citizen who was damaged by the crime/other citizen/damaged legal entity/inspection/Ministry of Internal Affairs/other state body/public prosecution/others
 9. How was the report filed? Directly or via Ministry of Internal Affairs
 10. Type of decision and reasons:
 - Rejected complaint:
 - The act is not a criminal act
 - The social damage was neglectable
 - There are circumstances which exclude prosecution
 - There is not sufficient evidence that the reported person has committed the crime
 - Interrupted investigation:
 - Because of temporary psychic disorder
 - The reported person is on the run
 - Closed investigation:
 - The act is not a criminal act
 - The social damage was neglectable
 - There are circumstances which exclude prosecution
 - There are circumstances which exclude criminal responsibility
 - There is not sufficient evidence that the reported person has committed the crime
 - Charges brought:
 - Directly
 - After investigation
 - The matter sent to the other state. Which state?
 - Was the suspect in custody and for how long?
- C. Information on duration of the procedure:
 1. Date of the receipt of complaint
 2. Date of the initiation of investigation
 3. Date of the final decision
 4. Date of filling in this form.

Form 'Sk-3' on 'A minor against whom the procedure upon criminal report and preliminary hearing is completed' contains the following information:

- number of the entry;
- number of statistical form;

- B. information on the minor person committing the crime (at the time of crime):
1. Last Name and name
 2. Gender
 3. Date of birth
 4. Place of permanent habitation
 5. Occupation
 6. Profile of occupation (worker, owner, co-owner, household, supported person...)
 7. Nationality
 8. Citizenship
 9. Marital status
 10. Education
 11. The crime was committed: individually, with someone, helping someone, making someone commit the crime...
 12. Who was involved in the crime also? (just a person on it own, with adult accomplice, with minor or children accomplice, with minor or children and adult accomplice or children)
 13. How many people were involved in the crime?
 14. Was the person earlier convicted of sth?
 15. Was the person in custody and for how long?
 16. Measures taken in preliminary procedure against the minor in question (supervision of the foster body, removal from the environment, no measures taken)
- C. Information on the crime:
1. Legal name of the crime, what article and paragraph, related to which crime, legal name of the other crime, article, paragraph, sub-paragraph in Criminal Code.
 2. The name of the legislation applied
 3. Was any property damaged during the crime
 4. Was the crime finished in attempt
 5. The year of the crime
 6. Place of the crime
 7. Is the person responsible for several connected crimes (of the same kind, of other kind, of the same and other kind)
 8. Number of crimes connected
- D. Information on court's decision:
1. Who reported the minor:
 - a. Citizen that was damaged by the act
 - b. Other citizen
 - c. Damaged firm or other legal entity
 - d. Inspection
 - e. Ministry of the Interior
 - f. Other state body
 - g. Direct knowledge of the prosecution
 - h. Other
 2. How was the report filed to public prosecutor:
 - a. Directly
 - b. Through Ministry of Interior
 3. The types of decision made:
 - a. The procedure is not started, the report was dismissed because of:
 - i. The act is not a criminal act
 - ii. The social damage was neglectable
 - iii. There is no evidence that the minor committed the crime
 - iv. Reasons of purpose
 - v. Others
 4. Preliminary procedure stopped because
 - i. The act is not a criminal act
 - ii. The social damage was neglectable
 - iii. There is no evidence that the minor committed the crime
 - iv. Reasons of purpose
 - v. There are circumstances which exclude prosecution
 - vi. others
 5. The proposal for sentencing or other measures was made

- E. Information about the family circumstances (at the time of crime):
2. Is the minor:
 - a. A child from a marriage
 - b. A child that is not from a marriage
 - c. Later recognized child
 - d. Adopted child
 - e. Orphan
 - f. Unknown
 3. The parents of the minor live:
 - a. Together
 - b. Separated
 - c. Father deceased
 - d. Mother deceased
 - e. Both parents deceased
 - f. Unknown
 4. Who lives with the minor:
 - a. Both parents
 - b. Only father
 - c. Only mother
 - d. With husband/wife
 - e. With relatives
 - f. With other people
 - g. In foster family according to social service decision
 - h. In social care institution
 - i. In juvenile institution
 - j. Alone
 5. Father's occupation:
 6. Profile of occupation (worker, owner, co-owner, household, supported person etc.)
 7. Mother's occupation
 8. Profile of occupation (worker, owner, co-owner, household, supported person etc.)
- F. Information on the length of the procedure:
1. Date of the filing of report
 2. Date of the initiation of preliminary procedure
 3. Date of the final decision
 4. Date of filling in this form.

Annex VI

Jurisdiction in criminal cases in the courts of Montenegro

According to the 'Official Gazette of Montenegro' No. 5/02⁵⁹, basic courts have jurisdiction in criminal cases: a) to judge in the first instance for criminal acts for which as a principal punishment prescribed by law is a monetary penalty or a prison sentence of maximum of ten years; b) to judge in the first instance for those criminal acts which are by special legislation prescribed to be the jurisdiction of basic courts. In the first instance, the superior courts judge in criminal proceedings for criminal acts for which as a principal punishment prescribed by law is a prison sentence longer than 10 years, as well as for those criminal acts which are by special legislation prescribed to be the jurisdiction of the superior courts: organized crime, corruption, terrorism, war crimes and hate crimes (provoking religious or national hate). In the second instance, the superior courts decide appeals against decisions of the basic courts. Special Departments in superior courts for Combating Organized Crime, Corruption, War Crimes and Terrorism were established in 2008. The Court of Appeal acts as a second degree of the superior courts. It decides appeals against the first instance rulings of the superior courts as well as appeals against the rulings of the Commercial courts; decides disputes relating to the conflict of jurisdiction between basic courts, between basic and higher courts, between superior courts and between commercial courts. Finally it performs other duties provided by the law. According

⁵⁹ See: <http://www.sudovi.co.me/home.php?PID=126&LANG=en#apelacioni>.

to the article 26 of the Official Gazette No. 5/02, the Supreme Court: decides on extraordinary legal remedies against the rulings of the courts of Montenegro; decides against the rulings of its Department, when the law so provides; decides on the transfer of territorial jurisdiction when it is obvious that another territorially jurisdictional court shall conduct proceedings more easily or because of other important reasons; determines the territorially jurisdictional court when the jurisdiction of the courts of Montenegro is not excluded and when in view of the rules on territorial jurisdiction it is not possible to reliably ascertain which court in a specific legal matter has territorial jurisdiction; decides conflicts of jurisdiction between courts of different types on the territory, except when the jurisdiction of another court has been established; performs other duties provided by the law.

Annex VII

The Judicial Council of Montenegro

Pursuant to Article 127 of the Constitution of Montenegro, the Judicial Council is composed of a President and nine members. The President of the Supreme Court is by default the President of the Judicial Council. The members of the Judicial Council are: four judges appointed and dismissed from office by the Conference of Judges; two members of Parliament from the parliamentary majority and opposition (appointed and dismissed by Parliament); two prominent lawyers appointed and dismissed by the President of Montenegro; a representative of the Ministry of Justice.

Annex VIII

Registry of the courts for cases of investigation 'Ki' (and for cases of preliminary procedure in commercial crime 'Pki')

1. Ordinal number and the date
2. Request – proposal of the prosecutor, victim as a prosecutor, private prosecutor
3. Person against which the investigation is requested
4. Type of crime or commercial crime
5. Decision on prosecutor's request
 - of the investigative judge (that the investigation should be performed; not agree with the proposal)
 - of the judicial council (that the investigation should be performed; that the request is denied)
6. The appeal on the decision of the investigative judge the defendant filed on the following date
7. Decision of the council upon appeal and a brief content of the decision
8. Investigation (interrupted; continued; stopped)
9. Appeal on the decision to interrupt the investigation
10. Decision on the appeal from the line 9 and a brief content of the decision
11. The victim continued prosecution (date)
12. Custody duration (from; to)
13. The file sent to the prosecutor (date)
14. The file returned for additional investigation
15. Investigation complete on the date
16. The file returned to the prosecutor
17. Charges brought on the date
18. Defendant released on the date
19. Decision on taking over prosecution
20. The mobility of the file and remarks

Registry of the courts for cases of investigation for minors 'Kim'

1. Ordinal number
2. Date of reception
3. Judge for minors
4. Minor perpetrator of the crime

5. Criminal procedure started (upon prosecutor's request; according to decision of the minor court council)
6. Decision not to start the procedure
7. The type and qualification of the act
8. Custody (determined; continued; stopped)
9. Temporary measures (minor sent to the special institution, shelter or similar; supervision of the social service or other family)
10. The case given to
11. The case given to the prosecutor
12. The case returned for additional investigation
13. Preliminary procedure finished (by closing the case; by initiating further procedure in front of the juvenile court)
14. The case archived
15. The mobility of the case

Registry of the courts for first instance cases 'K' (and for cases of commercial crime 'Pk')

1. Ordinal number
2. Who filed the request (who is authorized prosecutor, the file sign)
3. Suspected (name and surname and the title)
4. Type of crime (commercial crime)
5. Custody (put in custody, date; released, date)
6. The charges stopped date
7. The procedure stopped, article of the law
8. Hearing (in front of the council; in front of the individual judge)
9. Verdict (passed; acquittal; charges dismissed; conviction; verdict completed; verdict prepared)
10. Parole conviction, court warning
11. Type and length of punishment
12. Measurement of security – law article and its length
13. Appealed by (prosecutor; defendant; victim)
14. Appeal dismissed
15. In second degree procedure the decision is (confirmed; changed; abolished)
16. The content of the decision upon appeal in third degree
17. Repetition of the procedure
18. Request for protection of legality
19. First degree decision enacted on the day
20. Information on parole
21. Remarks and mobility of the case

Registry of the courts for cases in criminal procedure against minors 'Km'

1. Ordinal number
2. Date of reception
3. Minor who has committed the crime
4. Procedure in front of the council initiated (upon public prosecutor's proposition: correctional measurement; upon public prosecutor's proposition: punishment; upon decision of the council at the juvenile court)
5. Custody (determined; continued; stopped)
6. Decision on temporarily placement
7. Council meeting (date; decision: procedure stopped; decision: correctional sentence; decision: sent to hearing)
8. Hearing
 - Verdict or decision (date; punishment; correctional sentence; measurement of security; procedure terminated)
 - Appeal (date of the appeal; who filed the appeal; decision of the second degree court)
9. Date of the verdict's enactment
10. Date of the execution order
11. Date of the sending of the statistical information

12. Changes to enacted verdict or order
13. Correctional sentence changed with another measurement
14. Correctional sentence stopped
15. The case archive
16. Mobility of the file

Registry of the courts of investigative actions 'Kri'

1. Ordinal number and the date
2. Submitted by (case mark and the date)
3. Name and surname of the suspect
4. Investigative action that needs to be taken (brief content)
5. The request was approved
6. Information custody
7. Hearings
8. Mobility of the file and remarks

Registry of the courts of different criminal cases 'Kr' and for different criminal cases of minors 'Krm', for issuing different files on conducting criminal procedure 'Ku' (and different cases of commercial crime 'Rpk')

1. Ordinal number and the date of reception
2. State body and the case number (name, surname and the residence of the person asking for)
3. Brief content of the request
4. Hearing if set
5. Date of the decision
6. Brief content of the decision
7. Brief content of the decision
8. Remarks

Annex IX

Data compiled in quarterly court reports

- overview of the solved cases in the court on the day 1st of October 2009 by the year the cases were initiated and by the type of case:
 - a) opened in 2005 and earlier;
 - b) opened in 2006;
 - c) opened in 2007;
 - d) opened in 2008;
 - e) opened in 2009;
 - f) total;
- overview of the work of judges in Podgorica Basic Court in the period of 1st of January of 2009 until 1st of October 2009 by name and surname of the judge:
 - a) type of case;
 - b) unsolved cases on the 1st of January 2009;
 - c) received cases by the 1st of October 2009;
 - d) total cases in progress;
 - e) solved by the 1st of October 2009;
 - f) number of cases solved out of the number of cases supposed to be solved by each judge;
 - g) absences framework;
 - h) unsolved on the 1st of October 2009;
 - i) remarks;
- overview of the way the decision was made by name and surname of the judge:
 - a) total solved;
 - b) verdict;
 - c) order;
 - d) different way;

- e) number of decisions that are not formulated within the thirty days deadline from the day they were made;
- overview of the way the decision was made by type of case:
 - a) by verdict;
 - b) by order;
 - c) settlement;
 - d) other way;
 - e) number of decisions that are not formulated within the thirty days deadline from the day they were made;
- overview of the length of the procedures in complicated compounded cases in 2008 until the 1st of October 2009 by type of case:
 - a) length of the procedure up to three months;
 - b) length of the procedure up to six months;
 - c) length of the procedure up to nine months;
 - d) length of the procedure up to one year;
 - e) length of the procedure over one year;
 - f) total;
- overview of the quality of work in compounded complicated cases in 2009 until the 1st of October 2010 by type of the case:
 - a) total solved upon appeal;
 - b) confirmed;
 - c) changed;
 - d) annulled;
- overview of the quality of work by name and surname of the judge:
 - a) solved upon appeal
 - b) percentage of confirmed;
 - c) percentage of changed;
 - d) percentage of annulled.

Annex X

Form 'SK-2' on 'An adult against whom criminal procedure is officially completed' contains the following information:

- number of the entry;
- number of statistical form;
- A. Information on the person committing the crime (at the time of crime)
 1. Last Name and name
 2. Gender
 3. Date of birth
 4. Place of permanent habitation
 5. Occupation
 6. Profile of occupation (worker, owner, co-owner, household, supported person...)
 7. Nationality
 8. Citizenship
 9. Marital status
 10. Education
 11. The crime was committed: individually, with someone, helping someone, making someone commit the crime...
 12. How many persons were involved in the crime?
 13. Was the person earlier convicted of something?
 14. Was the person in custody and for how long?
- B. Information on the crime
 1. Legal name of the crime, what article and paragraph, related to which crime, legal name of the other crime, article paragraph,
 2. The name of the legislation applied
 3. Was any property damaged during the crime
 4. Was the crime finished in attempt
 5. The year of the crime
 6. Place of the crime

7. Is the person responsible for several connected crimes (of the same kind, of other kind, of the same and other kind)
8. Number of crimes connected
- C. Information on court's decision
 1. Private charges rejected
 2. The procedure stopped or the charges dismissed because of:
 - a. The act is not a criminal act
 - b. The social damage was negligible
 - c. There are circumstances which exclude prosecution
 - d. There are circumstances which exclude criminal responsibility
 - e. There are no sufficient evidence that the reported person has committed the crime
 - f. The prosecutor dropped the charges before the main session
 3. Acquitted
 - a. The act is not a criminal act
 - b. The social damage was neglectable
 - c. There are circumstances which exclude criminal responsibility
 - d. There are no sufficient evidence that the reported person has committed the crime
 4. Charges rejected:
 - a. There are circumstances which exclude prosecution
 - b. The prosecutor dropped the charges before the main session
 - c. Other reasons
 5. The security measures were sentenced without the punishment
 6. Guilty
 7. Extradited to the other state
- D. Information about the sentence (fill in if the person is found guilty only)
 1. Was the main punishment sentenced
 2. Was the main punishment reduced
 - a. According to the article 42 and 43 of the Criminal Code
 - b. According to the article 44, paragraph 2 of the CC
 3. Was a special punishment for returned criminals sentenced
 4. Was there paroled sentence
 5. Was there any special provision to the sentence
 6. Was there any indirect punishment
 7. Measures of security
 8. Was the property gain taken
- E. Information on victims
 - a. Number
 - b. Sex
 - c. Age (adult, minor, younger minor)
- F. Information on the length of the procedure
 1. Date of the receipt of complaint
 2. Date of the initiation of investigation
 3. Date of the final decision
 4. Date of filling in this form.

Form 'SK-4' on 'A minor against whom criminal procedure in front of the council of judges is officially completed' contains the following information:

- number of the entry;
- number of statistical form;
- A. Information on the minor person committing the crime (at the time of crime)
 1. Last Name and name
 2. Gender
 3. Date of birth
 4. Place of permanent habitation
 5. Occupation
 6. Profile of occupation (worker, owner, co-owner, household, supported person...)
 7. Nationality

8. Citizenship
9. Marital status
10. Education
11. The crime was committed: individually, with someone, helping someone, making someone commit the crime...
12. Who was involved in the crime also? (just a person on it own, with adult accomplice, with minor or children accomplice, with minor or children and adult accomplice or children)
13. How many people were involved in the crime?
14. Was the person earlier convicted of something?
15. Was the person in custody and for how long?
16. Measures taken in preliminary procedure against the minor in question (supervision of the foster body, removal from the environment, no measures taken)
- B. Information on the crime
 1. Legal name of the crime, what article and paragraph, related to which crime, legal name of the other crime, article paragraph
 2. The name of the legislation applied
 3. Was any property damaged during the crime
 4. Was the crime finished in attempt
 5. The year of the crime
 6. Place of the crime
 7. Is the person responsible for several connected crimes (of the same kind, of other kind, of the same and other kind)
 8. Number of crimes connected
- C. Information on court's decision
 1. Who reported the minor:
 - a. Citizen that was damaged by the act
 - b. Other citizen
 - c. Damaged firm or other legal entity
 - d. Inspection
 - e. Ministry of the interior
 - f. Other state body
 - g. Direct knowledge of the prosecution
 - h. Other
 2. How was the report filed to public prosecutor:
 - a. Directly
 - b. Through Ministry of internal affairs
 3. The types of decision made:
 - a. The procedure in front of the judges councils is stopped because of:
 - i. The act is not a criminal act
 - ii. The social damage was neglectable
 - iii. There are no evidence that the minor committed the crime
 - iv. Reasons of purpose
 - v. There are circumstances which exclude prosecution
 - vi. The prosecutor gave up the prosecution
 - vii. The measures of security were sentenced (without punishment)
 - viii. The juvenile prison was sentenced
- D. Information about sentences
 - a. The sentence was juvenile prison or correction measure
 - b. The sentence were measures of security
 - c. Was the property gain taken away?
- E. Information about the family circumstances (at the time of crime)
 1. Is the minor:
 - a. A child from a marriage
 - b. A child that is not from a marriage
 - c. Later recognized child
 - d. Adopted child
 - e. Orphan
 - f. Unknown
 2. The parents of the minor live:

- a. Together
- b. Separated
- c. Father deceased
- d. Mother deceased
- e. Both parents deceased
- f. Unknown
- 3. Who lives with the minor:
 - a. Both parents
 - b. Only father
 - c. Only mother
 - d. With husband/wife
 - e. With relatives
 - f. With other people
 - g. In foster family according to social service decision
 - h. In social care institution
 - i. In juvenile institution
 - j. Alone
- 4. Father's occupation:
- 5. Profile of occupation (worker, owner, co-owner, household, supported person)
- 6. Mother's occupation:
- 7. Profile of occupation (worker, owner, co-owner, household, supported person)
- G. Information on victims
 - a. Number
 - b. Sex
 - c. Age (adult, minor, younger minor)
- H. Information on the length of the procedure
 - 1. Date of the receipt of complaint
 - 2. Date of the sentence proposal by public prosecutor
 - 3. Date of the final decision
 - 4. Date of filling in this form

Annex XI

The 2008 Annual Report of the Judicial Council (published in March 2009) reports the following information:

- I. Introductory remarks;
- II. Examining the work of all the courts in 2008 – all case types:
 - cases pending on 1 January 2008;
 - cases filed in 2008;
 - total cases in process in 2008;
 - cases resolved by 31 December 2008;
 - cases pending on 31 December 2008;
 - percentage of cases pending of all cases in process in 2008;
- III. Examining the work of the basic courts in 2008 – all case types (average caseload per judge; the average number of cases incoming per month and the backlog of pending cases of all types in relation to the average number of cases incoming per month; the average number of cases incoming per month and the backlog of pending cases in relation to the average number of cases incoming per month):
 - overview of the work of the basic courts in certain types of cases – investigative actions; investigations; first instance criminal cases; juvenile delinquency cases (cases pending on 1 January 2008; cases filed in 2008; total cases in process in 2008; cases resolved by 31 December 2008; cases pending on 31 December 2008; percentage);
 - overview of resolved cases pending as of 2007 and earlier – by case (resolved – pending as of 2004 and earlier; as of 2005; as of 2006; as of 2007; total);
 - cases resolved in basic courts – by year (since 1994 to 2008; total; percentage);

- overview of (unresolved) cases pending as of 2007 and earlier – by courts (end pending as of 2004 and earlier; as of 2005; as of 2006; as of 2007; total);
 - overview of (unresolved) cases pending as of 2007 and earlier – by case type (end pending as of 2004 and earlier; as of 2005; as of 2006; as of 2007; total);
 - cases pending (unresolved) in basic courts – by year (since 1994 to 2008; total; percentage);
 - resolved and pending cases – by chapters of the Criminal Code and by basic courts (total cases in process in 2008; share in the total number of criminal cases in process; resolved in 2008; percentage resolved; pending on 31 December 2008; percentage pending);
 - the criminal offences set out in Chapters XXIII (payment operations and economic transactions) and XXXIV (malfeasance in office);
 - the length of proceedings in complex cases (proceedings that lasted up to 3 months; to 6 months; to 9 months; to 1 year; over 1 year; total);
 - overview of the quality of work performed in first instance criminal cases and civil cases (total cases decided on appeal; affirmed; modified; reversed); overview of the manner of disposition – types of decisions rendered in criminal and civil cases in 2008 including an overview of decisions that were made up in writing 30 or more days after they were rendered (cases resolved in 2008; judgment; decision; settlement; other resolution; number of decisions drawn-up after set deadline expired);
 - overview of sentences imposed by guilty judgment (total guilty judgments in 2008; sentence of a fine; percentage; suspended sentence; percentage; sentence of imprisonment; percentage);
- IV. Examining the work of the superior courts in 2008 – all case types (caseload per judge; the average number of cases incoming per month and the backlog of pending cases of all types in relation to the average number of cases incoming per month)
- overview of the work in certain type of cases (investigative actions; investigations; first instance criminal cases; juvenile delinquency cases; on criminal cases in second instance);
 - overview of (unresolved) cases pending as of 2007 and earlier – by court (end pending as of 2004 and earlier; end pending as of 2005; 2006; 2007; total) and by case type;
 - cases (unresolved) pending – by year (since 1994 to 2008; total; percentage);
 - overview of resolved case types, pending as of 2007 and earlier – by court (resolved – pending as of 2004 and earlier; 2005; 2006; 2007; total);
 - overview of resolved case types, pending as of 2007 and earlier – by case type (resolved – pending as of 2004 and earlier; 2005; 2006; 2007; total);
 - cases resolved – by year (since 1994 to 2008; total; percentage of resolved) and by type of case;
 - case structure – by chapter of the Criminal Code;
 - overview of the work of the Special Departments of the superior courts;
 - overview of the length of proceedings by courts and by case type (proceedings that lasted up to 3 months; up to 6 months; up to 9 months; up to 1 year; over 1 year; total);
 - overview of the quality of work at the court level – criminal cases in first instance and civil cases in second instance (total decided on appeal; affirmed; modified; reversed; affirmed + modified);
 - overview of the quality of the work performed in individual case types (total decided on appeal; affirmed; modified; reversed; affirmed + modified);
 - overview of the manner of disposition – type of decisions rendered in 2008 including an overview of decisions that were made up in writing 30 or more days after they were rendered – criminal cases in first instance, criminal cases in second instance and civil cases in second instance (total cases resolved in 2008; judgment; decision; other resolution; total number of decisions that were not made-up in writing within 30 days of the day the decision was rendered);
 - overview of sentences imposed by guilty judgment (total guilty judgments; sentence of a fine; percentage; suspended sentence; percentage; sentence of imprisonment; percentage).

Other chapters relate to the work of the Commercial Courts, the Court of Appeal and the Supreme Court.

Annex XII

The 'Statistika' database of the Office of the National Coordinator for Combating Trafficking in Human Beings collects the following information:

- Police and other subjects that filed the report:
 1. Ordinal number
 2. Who have submitted the report (name and surname, unique citizen's number, address, telephone, number and date of receipt of report); KU number
 3. Reported person (ordinal number; surname, father's name, name, unique citizen's number, place of residence, occupation, year of birth and citizenship)
 4. Name of the crime and the date when it occurred
- State prosecution:
 1. Name of the state prosecutor
 2. KT number
 3. Person suffered the damage (damaged persons as a person filing the report; surname; name; unique citizen's number; place of stay; occupation; year of birth and citizenship)
 4. The suspect (the crime and the date when it occurred, whether detention is proposed by the prosecutor)
 5. The report dismissed
 6. Investigation (request to conduct investigation; the most serious crime; the amount of the property gain and measurements of security; request to widen the investigation according to persons and according to crime; declaration on dismissal of investigation; solved in another way)
 7. Accusation (the most serious crime and proposal for custody; the amount of financial or property gain; direct accusation/the most serious crime and proposal for custody; dismissal of the direct accusation according to Article 282 and 283 of the Law on Procedure in Criminal Matter)
- Courts:
 1. Name of the court
 2. KI number or K number
 3. Custody (custody set; dismissed)
 4. Decision according to request to conduct investigation (request dismissed; positive decision)
 5. Decision of widening the investigation
 6. Decision on additional investigation
 7. Ceasing the investigation
 8. Dismissal of investigation
 9. Accusation received at the court
 10. Decision on accusation (sentence)
 11. Accusation legally enforced
 12. First hearing
 13. The date of the publishing of the verdict, when it was delivered, property claim and security measures
 14. Appeal, the date of submission (by the prosecutor; by the defendant)
 15. The date of the sending of the record to the court in second degree
 16. Decision on court in second degree (type and date)
 17. The date of the return of the record after the decision of the court in second degree
 18. The date of the first hearing after the decision of the court in second degree
 19. Remarks