BORDER MANAGEMENT

Montenegro (JUNE 2018)

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EXECUTIVE SUMMARY

Several legal instruments are under the revision process: Law on Internal Affairs and Law on border control are being prepared, but Law on Police Academy is still pending. These laws should be amended in order to be able to remove obstacles hampering the development of the IBM and the implementation of the Schengen action plan. The Border Police's organisational structure has been revised. Three regional headquarters have been strengthened but not enough. There is a lack of border police officers in operational activities.

The IBM strategy is based on old European Union IBM concept, and therefore has to be revised, but only together with the EU processes. The Schengen Action Plan includes needed developments and sources of funds. However, it relies too much on external funding and clear prioritisation is missing.

Some developments are implemented or are ongoing: The mobile unit is operational, and train-the-trainers system has been improved and officers' skills to detect false documents have increased. The installation of cameras to booths at border crossing points is ongoing. Moreover, the detections of smuggled drugs have been increased.

The level of sea border surveillance has decreased during the last years and there is still not cooperation with Croatia. The exchange of sea border related information with Albania and Italy has been started at operational level and on an *ad-hoc* basis, without a clear institutional framework. There is evident need for enhancing multinational cooperation in Adriatic Sea in a more formal and institutionalised way. At land borders the situational awareness and reaction capability are not sufficient. There has not been progress in blocking of alternative routes at Serbian border, but a draft agreement endorsed by both sides is ready for signature. Most of the current border crossing points are too small and not adequately equipped in order to face Schengen requirements.

Bureaucracy in procedures for participating Frontex meetings and other activities hampers the smooth development of cooperation with Frontex and needs to be addressed urgently by the Ministry of Finance.

In development process and in planning the use of the EU funds, the focus should be put especially to technical border surveillance system, devices for thorough border checks, implementing anti-corruption measures, and support of enhancing train-the-trainer system. Establishing a NCC in the Border Police headquarters and functional regional headquarters with full RCC functions, and improving sea and land border surveillance is paramount.

1. Introduction

The peer review mission took place from 25 to 29 June 2018. The task of the mission was to evaluate the level of implementation of border management in Montenegro.

During the mission, visits were arranged to Ministry of the Interior (Border Police HQ), Regional Centre North (Bijelo Polje), Border Police Departments Nikšić and Pljevlja, BCP Ilino Brdo and BCP Kula. Moreover, lake border surveillance was studied at Skadar area, and land border surveillance was assessed at some parts of BiH, Serbia, Kosovo[1] and Albania borders. During the visits, discussions were held with local heads and representatives of the Border Police, as well as with other authorities met.

Parallel with the peer-review was carried out an assessment of the adjustment with the relevant EU acquis and preparedness to start to apply EU regulations. Since the undersigned expert have carried out peer-reviews in Montenegro for several consecutive years the report takes into account the previous findings, where relevant.

Montenegro is implementing Integrated Border Management (IBM) strategy for 2014-2018. The strategy is in line with the previous EU IBM concept (Council conclusions December 2006). Montenegrin authorities are implementing Schengen Action Plan (SAP) that was drafted in 2016 with the help of IPA 2013 Twinning Project *"Support the adoption of theSchengen acquis"* and adopted by the Government in February 2017.

2. Integrated Border Management (IBM)

Regulation on European Border and Coast Guard entered into force in October 2016. The regulation includes a new definition for European IBM concept. The new concept is established on eleven strategic components. Furthermore, three horizontal topics (fundamental rights, training, research and innovation) are identified during the strategy process carried out by EU institutions, Frontex and Members States. These horizontal topics are complementing the concept. The IBM concept is based on four tier access control model, and the four tier access control model is also the main tool for implementation of the European IBM concept.

In the EU, the implementation is planned gradually. The Commission political level document, *"The main elements for developing the European Integrated Border ManagementStrategy"* was published on 14 March 2018. In its conclusions from May 2018, Council of theEU invites Frontex to prepare, in close cooperation with the Member States and the Commission, a technical and operational EU IBM strategy by the end of 2018. The Council also invites the Member States to prepare or align appropriate national IBM strategies, taking into account the technical and operational strategy to be developed by Frontex and the main elements for developing the EU IBM Strategy at the latest by June 2019, or within 6 months from the adoption of the technical and operational strategy by Frontex, if the latter is adopted after the end of 2018.

The SAP has clear aims and goals, for each measure has been identified responsible body and cooperating authority, deadline, reference point, budget and success indicator. The Action

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[1] * This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

Plan gives a very good basis for development. However, it relies still too much on external funding and priorities are not clearly defined. Also maintenance and operational activities should be covered by national funding.

For instance, the Border Police's new organisational structure include national Border Police HQ in Podgorica and 3 regional HQs (Regional Centres, RCC): North (BijeloPolje), Central (Podgorica) and South (Bar). The establishment and equipment of RCCs is partly pending.

The number of staff in RCC North is 11 officers (head of region, 4 deputies, 5 shift leaders and 1 police/administrative officer). Duty services are combined with the Border Police station's duty services which are located in the same building. The number of officers is still too low for enabling to centralise all the regional daily operational tasks, risk and operational analysis, and training coordination within the RCC.

The European border surveillance system (EUROSUR) has been operational since December 2014. The EUROSUR has tightened operational cooperation and improved the exchange of information between the Member States, the Schengen associated Countries and Frontex. Each Member State was obliged to establish a single NCC (National Coordination Centre) and exchange information according to the requirements stipulated in the EUROSUR regulation. The same obligation concerns Montenegro upon the accession. Nevertheless, the Montenegrin NCC would be needed sooner. The current operational and political situation requires improvements in situational awareness, reaction capability and contingency planning, and especially for cooperation between countries in the region and with counterparts in EU. Establishing a NCC would be the best response for these requirements.

Effective IBM system requires functional situational awareness at all levels of the authority that is responsible for border control. According to recommendation number 15 in Schengen Catalogue, there should be constantly updated comprehensive situational picture at national level covering all information related to national border management. Furthermore, according to recommendation number 16, there should be situational picture at regional and local level, as near to real-time as possible, to increase reaction capability, to enhance situation awareness and to improve capability to coordinate operational activities.

National border management situational picture should consist at all levels information of:
- border crossing traffic (total and each BCP, nationalities, number and reasons of II-line checks, refusal of entries, detected illegal actions, modus operandi, queues etc.)
- situation along blue and green border (number of illegal border crossings, their nationalities, modus operandi, identified routes, etc.)
- illegal immigrants detected inside territory, expelled persons, asylum seekers etc.
- pre-frontier picture (border management situation in neighbouring countries and countries of transit and origin)

and additionally at regional (or at local level):
- available resources; number and location of patrols, vessels, aircrafts and technical means
- names and duties of shift managers, etc.
- targets at maritime domain
- other relevant issues.

The Border Police have established, based on the decision of the Ministry of the Interior, a Mobile Unit at the national level and it has become operational. It was planned to consist of

16 officers, but the recruitment is still partly pending. Currently the Unit consist of 10 officers. The unit has started to operate under the Border Police HQ.

The Border Police have already a lot of international obligations; with neighbouring countries, with Frontex, and with IOM and other international organisations. There is an evident need to nominate dedicated officers for Frontex cooperation. This team or section could be then gradually beef up to a unit for international cooperation ("Frontex unit") within the Border Police HQ.

The Border Police have implemented some measures in order to increase its participation to the criminal investigations and to transfer responsibilities for investigations to the Border Police. The Border Police regional centres and border police stations are collecting data and information on all types of cross-border crime (trafficking, human smuggling, illegal border crossings, vehicle, drug and arms trafficking, forged documents, etc.), the perpetrators of these criminal acts, and modi operandi. The Border Police often carry out investigation on cases which it have detected and then give these cases to the Criminal Police. The Border Police also take part in investigations conducted by the competent prosecutor, together with the Criminal Police, thus contributing to obtaining the necessary evidence for various crimes that have cross-border character. Police have established INFOSTREAM system which is used for intelligence sharing both within the Border Police, and the Criminal Police. The Border Police officers are also contributing to the Criminal Police's investigation teams but are not participating as members of the teams. The Montenegro Border Police have also conducted several courses in order to improve border police officers' skills and knowledge to detect cross-border crime.

The SAP includes a measure that the Border Police officers should conduct investigations of the basic crime offences with the deadline in 2017-2020. This development has to be regulated by the Law on Internal Affairs.

When assessing this topic, it should be taken into account, that while carrying out their duties, border police officers are facing border related crimes, inter alia trafficking and smuggling of human beings, goods, drugs and weapons, forged and counterfeit travel documents, stolen property and stolen vehicles. To add value to Montenegrin internal security, and to enhance the capability to reveal illegal actions, the Border police should have a role in investigating the aforementioned types of crime. Participation in such investigations will increase the Border police's knowledge regarding modi operandi and illegal immigration routes, as well as facilitates the production of risk indicators and profiles. Especially, the Border police should participate fully in investigations of illegal border crossings, false travel documents and of human smuggling and trafficking. Ways to cooperate in this field are, for example, sharing intelligence and setting up joint investigation groups, common databases and flexible exchange of information. According to Montenegrin authorities there are no legal obstacles in the Border Police participation in criminal investigations.

There is no need to take over the investigation of the cases from the Criminal Police. However, there is a need to increase cooperation in criminal investigations. The best way to do it is to establish joint investigation teams which are led by the Criminal Police and in which border police officers participate as an equal members of the team.

The anti-corruption action plan is under implementation. For instance, the camera surveillance (including I-line booths) has been installed at several BCPs. This is good

progress. The transferring the camera images to RCCs and National HQ (future NCC) are still pending.

Recommendations:

- *Implementation of the Schengen Action Plan should be continued.*

- *Revision of the National IBM Strategy should be started in autumn 2018 but it should be finalised only after EU technical and operational strategy is ready (by the end of 2018). Guidance and support from TAIEX for drafting the new national IBM strategy is essential.*

- *NCC Montenegro should be established in the Border Police headquarters as soon as possible.*

- *Regional HQs (RCCs) should be strengthened further. There should be necessary personnel for risk analysis, training, technical support and situational awareness. Daily operational command functions, information exchange and maintenance of regional situational picture should be centralised into RCCs.*

- *Since there are no legal obstacles for the Border Police participation in investigations of cross-border crime, it should be started without delays by establishing joint investigation groups.*

- *The Schengen Catalogue's recommendations and best practices for prevention of corruption should be implemented as completely as possible. In general, the Customs should implement similar anti-corruption measures as the Border Police.*

3. Human resources and training

The number of Border Police staff is 1262 whereas in accordance with systematisation it should be 1410, and if it is compared to SAP the number of missing officers is 460. The total number of staff in the Montenegrin Border Police can be assessed to be still too low. There is shortage of personnel especially in patrolling activities at land border and in staff of regional HQs.

The need to increase the total number of staff in the Border Police is evident. In a short term, there are also other possibilities to increase personnel for patrolling. There are still quite many points which are manned 24/7. Therefore, the number and necessity of posts related to situational awareness, such as duty officers and dispatch desks, should be reassessed. The main rule should be that the regional HQs (RCC) maintain situational awareness (situational picture) on their respective areas. The aim is that the situational picture should be established electronically, but it can be started with maps on walls with magnetic symbols. The situational picture should include incidents, location of own assets, alarms from technical surveillance, etc. The RCC, based on situation, should i.a. redirect patrols in case of incidents.

For the security reasons it is understandable that Border Police stations are kept constantly manned. However, instead of having obligatory 24/7 dispatch and duty officers points, the security of a station (building) could be covered by a patrol, which could stay most of the

time at the station but could be sent to check technical alarms, and it could also conduct patrolling in the surrounding area. Precondition to this is that border police's buildings would be monitored by burglar alarm systems.

All border crossing points (BCP) in Montenegro are open 24/7 (except one seasonal BCP). There are several BCPs where the annual number of passengers is less than 10 000, and in some months the figures are under 1000. By limiting the opening hours of the smallest BCPs more personnel could be released for patrolling.

The age structure of the Border Police personnel is problematic since the vast majority of the personnel are between 40-50 years. The same problem concerns other Montenegrin law enforcement structures. Furthermore, there are also challenges with gender balance. However, the situation is getting better.

The Police Academy is not currently under the Ministry of Interior and there is not correspondence between the 18 months police studies and the future employment in the different fields of Police. Therefore, graduates from the academy are not directly offered work posts, while police units have to organise competitions to hire new officers. And after recruitment there is need for specialised training. This is the case for the Border Police, too.

Several years' experiences of the current system show that the police officers training and recruiting is not working. Situation could be improved by taking the Police Academy under the supervision of the Ministry of the Interior. There should be yearly quotas for each police branches including the Border Police. This would enable to organise necessary specialised training already in the Academy and graduated officers could start their work directly in their units. These experiences should give an impact to ongoing revision of Law on Police Academy.

The progress in training has been continued. The train-the-trainer system is ongoing and it is gradually developed. There are some positive results: For example the number of detected false and falsified documents has increased due to intensified training.

Recommendations:

- *The Police Academy should be subordinated to Ministry of the Interior.*

- *There is a need for a comprehensive recruitment and training plan for whole Montenegrin Police Forces. This plan should take into account the Border Police needs. There should be clear link between trainees' selection and recruitment to different Police sectors (i.a. to the Border Police).*

- *Special attention should be paid to gender balance.*

- *Maintaining and developing a comprehensive and systematic train-the-trainer system should be a priority.*

4. Border checks

Montenegro has 28 BCPs, out of which 26 are at its future external borders (two BCPs are at the Croatian border).There are 19 road, 2 railway, 2 airport and 5 port BCPs. One of the port

BCPs, Budva, is open only during summer season. There are preliminary plans to open five new BCPs, two with BiH, two with Albania and one with Kosovo.

Traffic via Montenegrin border crossing points has been continued to increase during last years' totalling over 17 million in 2017 (16.8/2016, 14.9/2015 and 13.6/2014). Most of the passengers are probably neighbouring countries' inhabitants. However, more detailed statistics were not available.

According to the bilateral agreements between Montenegro and its neighbouring countries, except Croatia, the border can be crossed by using an ID card as a travel document. The possibility to use ID cards decrease security since ID cards are easier to falsify than passports. Nevertheless, after the Montenegro's EU accession, this regime cannot be applied. In addition to Montenegrin national visas, also Schengen visas and visas issued by United Kingdom and USA are accepted.

Recently Montenegro have relief visa regime with some new countries. Citizens of Kazakhstan and Armenia can stay 30 days without visas between 4 APR and 31 OCT 2018 and Russian citizens 180 days between 27 APR and 31 OCT 2018. Georgian citizens are visa free from 15 JUN 2018 and can stay 90 days in Montenegro. These amendments to national visa regime will probably not increase considerably the risk of illegal immigration to or via Montenegro. Nevertheless, the possibility of illegal immigration should be taken into account in the Border Police risk analysis and tactical risk profiles.

Assessments of staff and devices needed should be based on reliable statistics and full awareness of the current and future situation. Applying the Schengen Catalogue's recommendation number 52, records should be kept in order to improve situational awareness and to facilitate analysis at the BCP. These records should include passengers' nationalities, average waiting times, detected false documents, apprehended facilitators, basic information from the other authorities working at the BCP, irregularities, other relevant information and information needed for Frontex. It would be very useful i.a. to know the division of passengers between Montenegrins, EU/EEA/CH citizens and third country nationals.

Systematic border checks are made by the Border Police. However, during the tourist season relaxation of border checks are often done. The Customs is carrying out systematic checks on cargo traffic, as well as risk analysis based and random checks on passenger traffic. The Border Police make an entry check first and an exit check last. One-stop control principle is not in use. Cooperation between all the authorities operating at BCPs is told to be smooth, but the authorities are i.a. working in different rooms and booths, and they do not have access to each other's databases.

Border checks on cruise passengers are carried out against passenger lists. This means that passengers' names are checked against national and Interpol databases.

According to national law pleasure boats can navigate to any border crossing point at Montenegrin coast, or if pleasure boats do not go near vicinity of the coast line there is no need to go BCP at all. This makes it very hard if not impossible to monitor whether boats are avoiding border checks. What it comes to vicinity of Albanian border, the nearest BCP for pleasure boats is located in Bar which is 70 kilometres from border.

The number of officers available for border checks can be assessed to be sufficient, but only outside of peak times and holiday seasons. During tourist season the officers are temporary relocated from border police units in west and north to the busiest BCPs in the Southern Montenegro. This is not sustainable solution since at the same time all the units need the manpower the most.

During holiday seasons, there are lot of border crossings of tourist busses especially at BCPs at Croatian and Albanian borders. The tourist busses border check procedure is different and smoother than checks on other passengers, and e.g. systematic checks against databases is often not conducted.

According to the Schengen Catalogue's recommendation number 41, the adequate number of officers depends inter alia on: constant control of passenger flow, night time, border situation and threat level, available equipment, environment (threat of pandemic etc.). There should also be officers with appropriate language skills in every shift.

A shift at a BCP should normally include:
- shift manager,
- first-line officers
- second line officers
- crime intelligence officer
- other specialized personnel (document experts, outdoor controllers, vehicle experts, dog handler, transportation identification specialist, video surveillance operator etc.)
- both male and female officers

During the low traffic, some of these tasks can be combined that two or more tasks are carried out by the same officer.

The first line checks are supported by passport readers (scanners). The Border Police use national databases in border checks. These databases are called "Border", which is a national entry-exit system, and "Search", which is a register of Montenegro's citizens. Moreover, passengers are checked against the Interpol hit lists. There is limited number of technical devices for fingerprint reading. The roll-out of automatic license plate reading devices in ongoing, and currently system has been installed for several BCPs.

Advanced information system (API) for international flights is not in use. National legislation, namely Border Control Act provides legal framework for API system. According to SAP the API system should be implemented in 2018 but it is now postponed due to further technical specifications.

The "Border" system provides automatic consultation with both the national and the INTERPOL databases. The "Border" stores passengers' entry and exit information into the system. Retention time of passengers' data is five years. All hits are registered in a log. BCPs have an on-line connection with central servers in Podgorica. However, in some places the connections are unreliable due to the use of different types of connections (satellite link, radio relay link, optics) and therefore the response times are more than 30 seconds whereas acceptable time should be 5 to 7 seconds. These BCPs are using local backups which are necessary as a short term solution. Moreover, some BCPs have problems with electricity, and therefore they are using automatically starting aggregates. However, there is problem in using aggregates sins after every power cut the computers have to be restarted during which the border checks cannot be conducted.

Stamping procedure differs from the EU one. Montenegrins' passports are stamped upon exit and third country nationals upon entry and exit. However, in practice, most of the third country nationals' travel documents are not stamped since they are citizens of neighbouring countries and are travelling with ID cards.

The number and level of devices at first and second line do not meet the Schengen requirements. Technical equipment needed at BCPs is defined in the Schengen Catalogue of External Borders, Return and Readmission, particularly in its recommendations number 44, 46 and 62. The equipment needed for the first line checks is defined in the recommendation 44 and the recommendation 46 describes devices needed for the thorough second line checks. A second line office with inter alia both stereo zoom microscope and video spectral comparator (e.g. VSC-4) is required at a BCP with extensive traffic. There is a possibility to organise common second line document verification for a couple of small BCPs when they are located close enough to each other, and the traffic flow is not extensive.

The number of detected false and falsified documents in border checks has been increased due to intensified training. However, all the border crossing points have not received necessary training, and it should be borne in minds that the constant refresh training is needed in this field also for already trained officers.

Reconstructions of the BCPs have been continued, and therefore some premises are already at a sufficient level. According to the Schengen Catalogue's recommendation number 35, infrastructure at border crossing points, inter alia the number of booths and lanes, premises (including facilities for persons refused entry), etc. should be tailored according to passenger flow (quantity and quality), and taking into account the assessment of future developments. In the Catalogue there are also recommendations regarding facilities for persons refused entry (number 39) and facilities for asylum seekers (number 40). In addition to that, there are recommendations for road BCPs (numbers 57-65) and for railway BCPs (numbers 67-72).

For carrying out border checks fully in line with Schengen Borders Code, and bearing in mind the requirements and procedures of the envisaged Entry-Exit system, the capacity (infrastructure, staffing and equipment) of most of the BCPs is inadequate. Systematic biometrics verification of third country national will require more lanes and other changes for infrastructure. These foreseen needs should be taken into account in construction plans.

Checks on vehicles are not at an adequate level, especially as regards devices used. The Border Police and the Customs have detected drugs and illicit goods, but i.a. very seldom persons hiding inside vehicles. Devices for checks on vehicles are inadequate, and if exist, often not used. Some places the checks on vehicles cannot be carried out due to lack of personnel (the few available officers are needed in I-line booths).

The Border Police have about 25 dogs in total, out of which 13 for detecting drugs and 2 for detecting explosives, but none for detecting persons hiding inside vehicles. Younger ones of these dogs could be trained also for detecting persons. This is commonly used practice in EU countries.

Some BCPs have a special building for thorough checks on vehicles. This has improved remarkably especially the detection rate of illicit drugs.

According to the Schengen Catalogue's recommendation number 62, and the best practices related to that, vehicle checks should be based on updated risk indicators and profiles, and carried out also on a random basis by using mobile/stationary X-ray machines, Heart Beat Detectors (HBD), carbon dioxide detectors, sniffer dogs for revealing persons hiding inside vehicles, and radioactive, drug and other detection equipment as well as other state of the art devices. More technical devices are needed in order to improve checks on cargo traffic, busses and lorries. Nevertheless, any device alone is not sufficient for checks on vehicles, but devices should be used in turns, in parallel and in unexpected ways as well.

Montenegro has already shared BCPs with neighbouring countries and more are foreseen. Shared BCPs are based on bilateral agreement between Montenegro and a neighbouring country. Based on these agreements, in general, border checks are carried out based on national legislation of the performing authority. This means that all national laws and other regulations that are applicable to persons crossing the state border or to import, export or transit of goods are applied in the same way and with the same consequences as if the BCP would be located at the own territory of a country concerned. In other words, the border checks are conducted as the border would lie in the middle of the BCP building. Therefore, e.g. at shared BCP with Albania, an Albanian citizen can be apprehended by the Montenegrin Border Police and an asylum seeker does not have access to Montenegro without passing first the Albanian border checks. In principle, the current procedure is functional, balanced for both counterparts and it does not include any loopholes for misuse. However, the requirements for agreement on shared BCP between an EU and a third country (SBC, Annex VI) should be borne in mind. The shared BCPs will reduce the costs and enhance the cooperation between respective countries. However, there should be readiness to take the agreements in line with the SBC Annex VI before the EU accession.

As regards border checks at land borders, the Montenegrin Border Police have functional cooperation with authorities in neighbouring countries. The heads of BCPs meet at least once a month to discuss practical issues related to border traffic. There is also wide ad hoc cooperation on issues such as traffic management. Along the border between some BCPs there is a telephone connection while others use mobile phones. The cooperation i.a. in investigating false documents could still be improved.

Project for installing camera surveillance at BCPs is ongoing. Next step could be to cover near surroundings of BCPs with cameras. The cameras will help to provide an overall picture of the traffic flowing through the BCP, enabling pre-profiling of queuing passengers and preventing travellers from circumventing the BCP. According to the Schengen Catalogue's recommendation number 60 (and 111) BCPs and the immediate surrounding area should be technically monitored, and lightning should be provided for border checks and surveillance. As a general rule, the BCP perimeter should be fenced off (exceptions could be made e.g. for a BCP for local border traffic). The best practice is that green border close to a BCP would be monitored by cameras and by an alarm system.

Recommendations:

- *The good process in detection of false and falsified travel documents should be continued and improved further.*

- *The "Borders" or other relevant database should provide risk indicators and up-to-date information on false documents for the first and second line officers.*

- *The national law which stipulates checks on pleasure boats should be changed. The pleasure boats should be obligated to go to the nearest BCP after entering Montenegrin territorial waters, and there should be a BCP for pleasure boat and yachts closer to Albanian border.*

- *The work should be continued in order to take gradually BCPs' equipment, infrastructure and staffing in line with EU/Schengen requirements.*

5. Land border surveillance

Based on threat level the land border is categorised in sectors. The most vulnerable areas are sector I, where should be constantly two patrols. At sector II should be two patrols 12 hours per day and at sector III a patrol 12 hours per day. With current number of personnel these requirements cannot be fulfilled.

Patrols are normally carried out by vehicles and quite often also by foot. Border surveillance is often organised by using patrols of 2 to 3 officers. During shifts patrols observe from vantage points, drive on roads near the border, control traffic at key points and also patrol on foot along the actual border line. Outside of daylight the night vision goggles are used, and there are also some thermal vision cameras.

Considering the resources available, the tactics used by the Border Police for border surveillance in order to apprehend illegal immigrants and smugglers are reasonably effective. However, the number of patrols is not at an adequate level. The Montenegrin Border Police have got more devices ("Smartdec") for technical surveillance of land border. Currently there are 17 sets of "Smartdec" which means 5 to 6 per each region.

As stated in the Schengen Catalogue's recommendation number 109, border surveillance and apprehension of illegal immigrants should be carried out with mobile and fixed patrols supported by technical means. Technical means include fixed and portable camera and alarm systems, and tracking dogs in forest areas.

The SAP includes introduction of comprehensive technical border surveillance systems at sea and land borders. This should be one of the main priorities. Currently, the most vulnerable places at the border are monitored more often than others, and in some places a patrol has to be present almost constantly. By covering these vulnerable places by fixed surveillance systems, and using transferable (passive, not carried by patrols) systems in other less vulnerable areas, these patrols could be released for patrolling in other places and to be in readiness (mobile patrol) as a part of reaction capability. The implementation of technical border surveillance systems should be kept as a priority.

Often illegal immigrants are escaping to thick forest or bushes. In order to detect these persons capable tracking dogs would be needed. There has been an initiative to establish a common dog training centre for all Montenegrin law enforcement authorities' purposes. This would be a welcomed progress since there is an evident need for tracking dogs and dogs for border checks (checks on vehicles). However, there are still no clear plans and timeline for establishment of the centre. TAIEX, IPA or other external support could be used on order to realise this initiative.

Construction works of TETRA network are ongoing. It is important that the coverage over the whole country will be gradually reached in due time.

Recommendations:

- *The number of patrols at land border should be increased.*

- *The most vulnerable points at land border should be covered by fixed and transferable technical surveillance. Fastest way is to start with cheaper transferable devices (such as "Smartdec"), but also fixed surveillance such as thermal vision camera towers are needed.*

- *Alarms from the technical surveillance should be directed to RCC and NCC. All patrols in the region should be under the command of the respective RCC.*

- *Comprehensive system for training and operational management of service dogs for checks on vehicles at BCPs and tracking dogs for border surveillance should be established. The establishment should be done with competent external support.*

5.1 Alternative roads

Montenegrin authorities have analysed and defined alternative roads that are crossing the border within Joint Expert Commissions with its neighbouring countries. Currently, some of these roads can be used by cars and even by lorries.

Currently, the alternative roads with Albania, Croatia and BiH are blocked, and with Kosovo and Serbia alternative roads are not blocked. Biggest numbers of such roads are crossing the border with Serbia, in total 87. In principle, there is an agreement according which Montenegrin and Serbian authorities would block the alternative roads by concrete blocks or barriers. However, the situation with the blocking is the same as it was during the peer-review in 2017.

In blocking the alternative roads, it should also bear in minds that despite of the fact that an alternative road would be blocked, it can be still used for illegal activities. The cargo (humans, goods, drugs) can simply be unloaded and reloaded over a blocked spot. If the road is blocked at two spots with long enough distance between them, that would complicate the use of the road notably. Before the roads are blocked, it should be ensured that that the blocking is not hampering the movements of local inhabitants. If there is a need to allow the movements on alternative roads, it should be provided in accordance of local border traffic agreement.

Recommendations:

- *The alternative roads should be block without delays. If the external funds are not found, the most vulnerable roads should be blocked by using national funding.*

- *In the second phase the roads should be blocked at two spots with long enough distance between them.*

- *The alternative roads should be monitored by technical systems and patrolling. The necessary level of surveillance in the area should be continued also after the roads are blocked.*

6. Lake and sea border surveillance

The length of Montenegro's coast is around 50 nautical miles. Sea traffic is quite intensive during the summer season consisting of cruisers, ferries, pleasure boats and cargo ships.

Montenegro has a sea border surveillance system which covers part of the coast line, Skadar Lake and Bojana River (between sea and Skadar Lake).The system includes three radars at coast (owned by Ministry of Transport and Maritime Affairs - Maritime Safety Department), 5 medium-range CCTV day-time cameras along the coast, 3 cameras at Skadar Lake and one camera at river Bojana. The situation is monitored from the RCC South regional communication centre in Bar. The Centre has also access to AIS data. However, the Centre has only watching right to radar and AIS picture without own software.

Situational awareness is very limited. As regards smaller boats radars cover only about half of the coastline. The most crucial sea area near the Albanian coast is only partly covered by radar and not by cameras. This is especially problematic since the first possible BCP for yachts and pleasure boats is only in Bar. Furthermore, the identification capability is poor since there are not night vision cameras. Also Skadar Lake can be monitored only at day time.

Also reaction capability is poor. Currently the Border Police have two patrol boats for whole Montenegrin coast. At Skadar Lake the Border Police are using two patrol boats. The situation have worsened compared e.g. with the situation in 2013 when there were two patrol vessels and 11 patrol boats for sea border surveillance. There have been some initiatives to renovate patrol vessels and/or get donations from Italian authorities but these have not realised yet. Now there is a plan to acquire three speed boats out of which one would start to operate at Skadar Lake from a new better located base.

When improving and developing comprehensive blue border surveillance system at the Montenegrin coast the Schengen requirements should be kept in mind. According to the Schengen Catalogue, a coastal surveillance system should be backed up by a network of coast guard stations in readiness for rapid reaction. The system should also be supported by an offshore element; meaning offshore patrol vessels, helicopters, and fixed wing aircrafts. The goal is that all vessels coming into territorial waters should be detected and identified. This means in practise that all vessels coming into territorial waters are detected by radars and by use of for example AIS, VTMIS, VMS (Vessel Monitoring System for fisheries), V-RMTC (Virtual Regional Maritime Traffic Centre) or SSN (SafeSeaNet). After that detected vessels should be identified by necessary measures. Identifications can be done by radio connection with the vessel, by air craft, by long-range camera, by patrol vessel or with help of other authorities. Identified vessels (names of vessels) should be checked against background information on risk vessels. Also the behaviour, route and other relevant factors should be assessed. The system should also be able to detect smaller vessels like pleasure boats. These actions are part of the situational awareness and tactical risk analysis. After identification and risk assessment, the vessel could be intercepted and checked, and then, if necessary, coercive measures are carried out. These measures are part of the reaction capability.

If these actions are done by inter-agency cooperation, the distribution of work could be for example that outside the territorial waters detecting and identification are done by the Navy, and risk analysis, interception, checking and necessary coercive measures are done by the Border Police. In any case, starting from measures that are based on crime intelligence information, like risk analysis, the actions taken must stay in the competence of law enforcement authorities only, not the military force.

The Unit for Electronic Surveillance and Operational Support has drafted on comprehensive plan how to upgrade sea border surveillance system. The plan includes 3 radar stations with integrated long-range thermal vision and CCTV cameras, as well as 11 integrated medium-range thermal vision and CCTV cameras. This plan has not been included in the SAP.

There are regular ferry connection between Bar (Montenegro) and Bari (Italy) and several cruise ships are visiting Montenegrin ports, usually Port of Kotor. Therefore, it is welcomed progress that exchange of information with Italian authorities has started at operational level between a few key officers on both sides. However, a rapid data exchange and response mechanism must be established and rooted in more formal and sustainable framework. Most often the cruise ships' previous port of call is in Croatia. However, there is not cooperation between Montenegrin and Croatian border polices in this regard. The smuggling of drugs, weapons and other illicit goods by speed boats from Albania to Montenegro is common phenomenon. Thus it is very good that cooperation between Montenegrin and Albanian border polices has started at operational level. However, in addition to the bilateral cooperation there is a clear need for multinational cooperation structure for Adriatic Sea.

Recommendations:

- *There should be a detailed project on establishing a comprehensive network of cameras (thermal vision and CCTV) and radars along the coast. The plan should include long and short term aims, and integrated use of equipment by all relevant authorities. The most important areas to be covered as soon as possible with radars and night vision camera surveillance are Skadar Lake and sea border with Albania.*

- *The Border Police should acquire own IT solution and software for maritime situational picture. The solution could use VTMIS picture as a platform.*

- *As regards small boats, the coverage of radar surveillance should be enhanced by complementing radar coverage by acquiring radars for Border Police purposes.*

- *Cooperation and especially exchange of border control and risk analysis information with Croatia should be started without delays (e.g. between Zadar and Bar centers).*

- *A real-time data exchange and response mechanism must be established between Adriatic Sea countries (Montenegro, Albania, Italy, Croatia) and rooted in formal and sustainable cooperation framework.*

7. International cooperation and cooperation with Frontex

Negotiations on border agreements with neighbouring countries are in process but the progress has been mostly slow. However, the recent ratification by Kosovo Parliament of the Montenegro-Kosovo border demarcation agreement is an important step forward. A common

understanding has been achieved with Serbia on nine border agreements concerning border and border crossings, and these agreements should be signed during 2018. The importance of the pending agreements should be stressed to all the countries in the region from the EU side (DG NEAR and EEAS).

Amendments to local border traffic (LBT) agreement with BiH are still pending. Concluding this agreement is important also in terms of closing the alternative roads. There is an old LBT agreement with Croatia, but it is not yet taken in line with the EU LBT regulation. The Montenegrin authorities have sent a proposal on joint patrols at land border for Croatian authorities, but no response is received. (There is a need for consultation between DG NEAR and DG HOME in this regard.)

Montenegro is planning to open soon a new BCP with Albania in Skadar area. Also border marks at Albanian border is planned to be renewed.

The cooperation with Frontex is intensifying. In 2017, Frontex has nominated two of its border crossing points as a Frontex Coordination Points (at Albanian border). In 2018 there were activated four BCPs (Sukobin, Božaj, Dobrakovo and Kula). This i.a. improves information exchange with EU Member States and gives Montenegrin officers an opportunity to learn from EU border guards. Other important forms of Frontex cooperation are training and risk analysis (WBRAN). The Border Police should also offer more its officers as observers to Frontex Joint Operations that are taking place in the region.

Negotiation on Status Agreement between EU and Montenegro is ongoing. The Status Agreement is based on European Border and Coast Guard regulation (Article 54) and it will enable Montenegro to receive Frontex coordinated operational support for instance in case of large migration flow through its territory. However, the (current interpretation) EU law limits the use of operational support to only to border with EU Members States. Therefore, the border guards sent by Frontex could operate only at Montenegrin border next to Croatia (land and maritime borders).

The Montenegrin authorities have not solved administrative problems that Border Police still have in sending its personnel to Frontex activities. The procedure is that the funds for deployments and travel to meetings in EU member States have to be confirmed in advance by the Ministry of Finance. The expenses are paid from the MoI budget and reimbursed by Frontex *post factum*. The procedure is too bureaucratic and is hampering the development of Frontex cooperation, especially when taking into account that Frontex is reimbursing all the travel and accommodation costs to Montenegro. This procedure is not in line with EU good practices, and must be addressed as a matter of priority by the Ministry of Finance.

Recommendations:

- *Amendments to LBT agreement with BiH should be finalised as soon as possible.*

- *LBT agreement with Croatia should be taken in line with the EU LBT regulation.*

- *The bureaucratic obstacles hampering the participation of Montenegrin personnel to Frontex activities in EU Member States should be removed.*
- *Frontex's possibility to coordinate joint operation in Montenegro should be taken into account in contingency planning.*

8. EU developments

European integrated border management and its legal bases are developing fast. European Border and Coast Guard (EBCG) regulation entered into force in October 2016 and the implementation is ongoing. The importance in implementation of the current regulation is put on rapid reaction pools, return activities and vulnerability assessment. The amendment proposal to this regulation is envisaged already in September 2018. It is foreseen that together with EBCG proposal in SEP 2018 the Commission will give proposal on amending EUROSUR regulation.

Schengen borders code (SBC) changes for enhanced register checks entered into force in April 2017. According to the amendment it is now obligatory to check all passengers against SIS, Interpol and national registers. Before, it was not allowed to check EU/EEA/CH citizens against registers on systematic bases, and for third country nationals (TNC) it was not obligatory upon exit.

Entry-Exit system (ESS) and related chances in SBC entered into force in November 2017. The operational use of the system is envisaged to be started in summer 2021. The main changes for current border check procedure will be systematic use of biometrics (fingerprints and facial image) for TCN border checks and abolishment of stamping. EES provides possibility for national facilitation programs for often travelling bona fide TCN.

The political agreement on regulation of establishing a European Travel Information and Authorisation System (ETIAS) has been reached and the regulation will enter into force in October or November 2018. The main purpose of system is to get advanced information on TCN who are not subjected to visa requirement. The operational use of the system is envisaged to be started in 2022.

The Commission proposal in regulation on interoperability of IT systems for border checks, asylum and law enforcement is under the negotiations. This regulation will improve the interoperability of EU wide IT systems such as ESS, SIS, VIS, ETIAS, Eurodac and ECRIS TCN.

EU acquis gives lot of requirements for national border management system and especially for border checks procedure. Immediately upon EU accession these requirements have to be applied in full. Before the Schengen accession the burden at the Montenegrin BCPs will be huge since not only the passengers crossing the external borders but also passengers crossing the Schengen borders (Croatian border and flights from Schengen Member States) have to be checked according to the same rules. Therefore, it would be paramount to limit the time between EU and Schengen accession as short as possible. This aim can be achieved only if the most of the Schengen requirements are fulfilled already upon the EU accession.

Recommendations:

- *All changes in EU legislation should be followed carefully and reflected in national legislation, where relevant*
.
- *It should be taken as a strategic goal to limit the time between EU and Schengen accessions as short as possible*

9. Review of the Montenegrin legislation

Most of the EU acquis concerning border control is composed of regulations which are directly applied in Member States. This means that from the day of accession EU regulations must be applied directly. There are some exceptions, such as Entry-Exit system (ESS) where the application of the system is started later. Nevertheless, these directly applied regulations include certain issues which should be implemented into national legislation before the accession. In order to be able to successfully start the implementation of EU acquis, the operational activities should be adjusted as close as possible with the EU requirements and standards in due time before the accession.

There are also couple of EU directives which must be implemented into national legislation before the accession.

There are also soft laws, such as the Commission recommendations and Schengen Catalogue on External Borders Control. The implementation of the soft laws helps on achieving the EU and Schengen requirements. Therefore, the implementation of soft laws' recommendations before the accession is essential.

There are foreseen changes in Montenegrin national legislation: Law on Internal Affairs, Law on border control and Law on Police Academy. The Law on Internal Affairs and the Law on border control are in an advanced stage of preparation. The Working Group for drafting the Law on Police Academy is working but the results are still pending, i.a. it is unclear whether the Police Academy is subordinated to Ministry of Interior or not. There could be also a possibility to subordinate the Police Academy to the Ministry of Interior in the Law on Internal Affairs.

The most relevant EU border management related regulations and directives are as follows:
– European Border and Coast Guard regulation (EU) 2016/1624
– Schengen Borders Code (EU) 2016/399
– Schengen Borders Code, reinforcement of checks against relevant databases at external borders (EU) 2017/458
– EUROSUR (EU) 1052/2013
– Entry/Exit System (EU) 2017/2226 and Schengen Borders Code amendments (EU) 2017/2225
– Local border traffic (EC) 1931/2006
– Schengen Evaluation Mechanism (EU) 1053/2013
– Carriers' liability directive 2001/51/EC
– Obligation of carriers to communicate passenger data (API Directive) 2004/82/EC

The most relevant soft law for correct implementation of EU/Schengen requirements is Schengen Catalogue on external borders (doc. 7864/09 SCHEVAL 48 FRONT 21 COMIX 252).

The level of alignment with the EU Acquis on border control is sufficient concerning directives, but concerning regulations it is only at a modest level. There is a need to make necessary amendments to the national legislation that are required in order to implement the EU regulations. However, the most important is to get border control procedures and activities align with directly applicable EU regulations.

9.1 European Border and Coast Guard regulation (EBCG)

EBCG gives legal basis for European Border and Coast Guard Agency (Frontex) and for Member States border control cooperation.

The mains topics that should be stipulated by national legislation are as follow:
- The competent body that requests the Agency to launch 1) joint/return operation and rapid border intervention and/or return intervention, and the body that approve to participate to joint operation and rapid border/return intervention (Articles 15 to 18, and Article 33).
- The body that decides that Montenegro cooperates with the agency in case of situation at the (Montenegrin) external borders requiring urgent action (Article 19).
- Nomination of national contact point (Article 23).
- Team members' executive powers in Montenegro i.a. right to use uniforms and carry service weapons (Article 40).

Montenegrin national law includes already possibility for foreign officers to carry their service weapons in their tasks. Other points should be included in the national law before accession, and national procedures and operational activities should be adjusted in order to meet EBCG's legal obligations.

9.2 Schengen Borders Code (SBC)

Montenegrin national law is adjusted close to SBC requirements and procedures. There are still some rules which have to be changed upon accession, such as acceptance of neighbouring countries ID cards as travel documents.

Montenegro has already some shared BCPs with neighbouring countries and more are planned. The current agreements are not fully in line with SBC requirements for international agreements on shared border crossing points (Annex VI, paragraph 1.1.4.). This fact should be assessed again nearer to the accession.

9.3 EUROSUR

EUROSUR regulation obliged all Member States to establish a National Coordination Centre (NCC) with certain powers and functions (Articles 4, 5, 9, 11 and 13). It also includes definition for Regional Coordination or Command and Control Centers (Article 17).

Establishing a NCC is extremely necessary in order to be able to increase the cooperation with Frontex, EU and the countries in the region.

9.4 Entry/Exit System (ESS)

ESS and SBC amendments related to it will not probably bind Montenegro upon the accession. However, EES requirement should be taken into account in BCPs' infrastructure and technical equipment already now.

The EES implementation and biometrics based mandatory systematic checks for all third country nationals will increase the time needed for border checks. Therefore, the regulations include possibility to establish national facilitation programs (EES/Article 25 and SBC/8d) for regularly travelling bona fide passengers. In order to avoid unnecessary long queuing times at BCPs, Montenegro should establish the national facilitation program to be in full use when EES implementation starts.

9.5 Local border traffic

Montenegro has local border traffic agreements with Croatia, BiH, Serbia and Kosovo. These agreements are not fully in line with the EU acquis. Amendments to agreement with BiH are in progress.

It is important to ensure that all the agreements are in line with EU acquis due time before the accession.

9.6 Schengen Evaluation Mechanism

Schengen evaluation mechanism is not applicable before Montenegro applies full Schengen "membership". However, it is recommended to establish a national Schengen quality control mechanism even before the accession. This would help Montenegrin authorities to better meet the EU and Schengen standards.

National quality control mechanism includes trained experts who carry out regular evaluation (on-site visits) to borders, report on findings and perform follow-up on correcting founded shortcomings.

The establishment of the quality control mechanism and training of experts could be conducted by support of TAIEX and/or Frontex.

9.7 Carriers' liability and Advanced Passengers' Information (API)

Directives of Carriers' liability (2001/51/EC) and Obligation of carriers to communicate passenger data (2004/82/EC) are transposed in the Montenegrin national legislation. However, the API is not yet technically implemented and any penalties to carriers have not imposed.

The implementation of API system and carriers' liability (including imposing fines) should be started without unnecessary delays.

10. WAY FORWARD

The most urgent recommended improvements are the following:

- **to develop technical surveillance systems for sea and land border, including establishment of the NCC and three RCCs (one combined with NCC)**

- **to strengthen Border Police regional HQs to be fully functional RCCs**

- **to continue the blocking of the alternative roads - priority should be put at Serbian border**

- **to intensify the Border Police participation in combating and investigating of cross-border crime**

- **to release border police officers to land border patrolling by reducing 24/7 place and by limiting smallest BCPs opening hours**

- **to continue improvements in prevention of corruption (in the Border Police and in the Customs)**

- **to finalise the amended LBT agreement with BiH**

- **to establish a multilateral framework for data exchange and rapid response mechanism at Adriatic sea**

- **to amend the legislation on border checks on pleasure boats**

- **to clarify the prioritisation and timelines for the acquirement of equipment - priority should be put to technical sea/land border surveillance, equipping RCCs and NCC, and devices for border checks**