

## Standard Summary Project Fiche – IPA centralised National and CBC programmes

### **Justice Reform**

#### **1. Basic information**

- 1.1 CRIS Number:** 2007/19300  
**1.2 Title:** Justice Reform  
**1.3 Sector:** Justice and Home Affairs 01.23  
**1.4 Location:** Montenegro

#### **Implementing arrangements:**

**1.5 Contracting Authority (EC)**

The Contracting Authority is the EC Delegation in Montenegro

**1.6 Implementing Agency:**

The Implementing Agency is the European Commission

**1.7 Beneficiary (including details of project manager):**

The beneficiaries are the Judiciary and the Ministry of Justice of Montenegro.

The Project Manager is the Ministry of Justice of Montenegro and the Supreme Court.

**1.8 Overall cost:**

€2 million.

**1.9 EU contribution:**

€2 million.

**1.10 Final date for contracting:**

Two years from the date of conclusion of the Financing Agreement

**1.11 Final date for execution of contracts:**

Four years from the date of conclusion of the Financing Agreement

**1.12 Final date for disbursements:**

Five years from the date of conclusion of the Financing Agreement

## **2. Overall Objective and Project Purpose**

### **2.1 Overall Objective**

To support the building of an independent and efficient judicial system, and to insure the general protection of juvenile offenders rights.

### **2.2 Project purpose**

To ensure effective implementation of the Montenegrin judiciary reform and juvenile justice system reform in line with EU recommended standards.

Following the project purpose the structure will consist of two main components: 1) overall judiciary reform and 2) juvenile justice system reform.

### **2.3 Link with AP /NPAA / EP/ SAA**

All strategic programming documents highlight the need to strengthen the efficiency of the judicial system to fully play its role as a guarantor of the rule of law (for further details see Annex III).

The **EP** stresses the need to strengthen judiciary independence, rationalise the court system, modernise proceedings and improve administration, provide adequate and sustainable financing for the judicial system. Moreover, it underlines the need to improve prison conditions, in particular as regards vulnerable groups.

The **SAA** states under art 80 that in their co-operation on justice, freedom and security, the Parties shall attach particular importance to the consolidation of the rule of law, law enforcement and the administration of justice in particular. The article stresses that co-operation will aim at strengthening the independence of the judiciary and improving its efficiency.

### **2.4 Link with MIPD**

The **MIPD** emphasizes the need to remove judicial recruitment and career management from the parliament's powers. Rather, the MIPD advocates the establishment of transparent procedures based on professional and objective criteria for selection and career advancement, rationalise the court system and provide adequate financing. Moreover, it underlines the need to improve prison conditions, in particular as regards vulnerable groups such as juvenile offenders (for further details see Annex III).

### **2.5 Link with National Development Plan (where applicable)**

The Republic of Montenegro has not yet approved a National Development Plan.

## **2.6 Link with national/ sectoral investment plans (where applicable)**

The proposed actions are in line with the draft strategy on judiciary reform and the National Action Plan for Children adopted in 2004 (for further details see Annex III).

## **3. Description of project**

### **3.1 Background and justification:**

#### **Judiciary Reform**

The Montenegrin Government's judicial reform has had three major objectives: (i) adoption of new legislation and regulations; (ii) training of judges, prosecutors, and other judicial officials; and (iii) modernisation of judicial operations/administration.

The legislative framework has been improved. However; additional policy and legal improvements are required and a great deal remains to be done on implementation. This project aims to address both further legislative revision and implementation.

On policy improvements, assistance is required to develop an action plan with clear deadlines and budget allocations in order to implement the new judiciary reform strategy. The key stakeholders in developing this strategy have been the judiciary, the Ministry of Justice, professional associations, civil society and EC experts.

The new Constitution is expected to be adopted in the second quarter of 2007 and will be crucial for speeding up the strategy and the reform process of the judicial system in line with the three main pillars of independence, professionalism and efficiency.<sup>1</sup>

For the present, the constitutional document in force remains the Constitution of the Republic of Montenegro adopted in 1992. It provides for judges and prosecutors to be elected and dismissed by the Parliament (art. 81). Under the Law on Courts of 2002 the Judicial Council oversees this process and submits recommendations to Parliament (art. 9).

The Judicial Council is composed of a Chairman and ten members. The President of the Supreme Court is the Chairman. The other members are appointed by the Parliament<sup>2</sup>. Under Article 77 of the Law on Courts, the members of the Judicial Council serve for four years and are not eligible for re-appointment.

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<sup>1</sup> After achieving independence, the Law on the Constituent Assembly of the Republic of Montenegro was passed in August 2006. The Law provides that the Constituent Assembly, elected in autumn 2006, ensures the adoption and promulgation of the new Constitution. For this purpose, the Parliament established the Council for Constitutional Matters, which at the end of September 2006 delivered a draft that was sent to the Parliamentary Committee for Constitutional Issues (a standing committee composed of 13 Deputies (MPs), 6 of which are from the opposition). The Parliamentary Committee for Constitutional Matters adopted the draft version of Montenegro's new Constitution. Discussions on outstanding issues including judicial independence are ongoing. Both the European Commission and the Council of Europe (Venetian Commission) stress the need to guarantee the separation of powers and effective protection of minority rights. Once the Parliamentary Committee will adopt the final version, the proposal will be submitted to Parliament. If the text is not approved by a 2/3 majority, a referendum must subsequently be held. More than 50 % of participating voters will be required in order to pass the Constitution.

<sup>2</sup> Six of them are chosen among judges (upon proposal of the General Session of the Supreme Court, which selects the candidates by way of a secret vote), two among law faculty professors (upon proposal of the Law Faculty) and two among prominent law experts (upon proposal of the Montenegro Lawyers Association).

The main responsibilities and powers of the Judicial Council are:

- submit proposals for elections and removals of judges,
- conduct disciplinary proceedings against judges,
- determine the number of judicial posts per court,
- propose to the Government the budget concerning the judiciary.

So the influence of the Parliament is presently twofold: (i) it appoints the members of the Judicial Council; and (ii) it has the final decision on the appointment of the candidate judges and prosecutors recommended by the Judicial Council. Moreover, promotion and transfer of judges follows the same procedure<sup>3</sup>, and the lifting of immunity of judges and state prosecutors also rests with the Parliament.

On the legislative improvements, it is evident that after adoption of the new Constitution, primary pieces of legislation as well as working procedures of the Judicial Council will need to be revised. The aim will be to increase judicial independence and establish transparent procedures - based on professional and objective criteria - for the selection and career advancement of the judiciary.

The Ministry of Justice will be responsible for putting forward proposals for legislative changes. Following rationalisation, the Ministry of Justice which previously had three departments, now has only a department for judiciary. However, since the department is understaffed (approx. 30 people) it normally adopts a coordination and supervisory role of working groups which include not only Ministry of Justice staff, but representatives of the judiciary, academics and local and international experts with experience in the field in which a specific piece of legislation is focused.

Apart from political influence, the present system is also rigid and time consuming when it comes to implementation.

The recent TAIEX - JLS mission organised by the European Commission, confirmed that the courts' backlog is partly due to the fact that the present system for filling existing vacancies in the judiciary is very slow (it can sometimes take more than six months for the Parliament to confirm the appointment of a judge). This is compounded by the fact that there is currently no Judicial Council (the term of office of the previous one expired at the beginning of December 2006 and the Parliament has yet to appoint new members). According to the 2006 Report of the Administrative Office of the Supreme Court, there are 253 judge positions in Montenegro, 22 of which are currently vacant (more than 8 % of the total).

Having an adequate budget is also crucial for ensuring a judiciary able to play its vital role as an independent branch of power. There is a need therefore to increase knowledge in court budgeting, to make sure that funds allocated to courts match priorities. Furthermore, negotiating skills in the politics of budgeting in the state arena are essential.

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<sup>3</sup> When there is a vacancy in a court the president of the same court informs the JC, which officially announces the vacancy (in the Official Gazette of the Republic and the daily newspaper). Candidates may then submit their applications. To be eligible they have to satisfy general (citizenship, healthy state and legal capacity, degree in Law and Bar exam) and special conditions (work experience in the field of law for 5, 6, 8, 10 and 15 years respectively for basic, commercial, higher, Appellate/Administrative and Supreme Court). The JC collects evaluations of the professional and working qualities of all candidates from: previous employers, meeting of the judges of the concerned court and of the immediately higher court.. Then the JC finalizes its proposals for the candidates to be appointed and send them to the Assembly together with basic information regarding all the other candidates. The identical procedure has to be followed when a judge wants to be promoted from a lower court to a higher one or he/she just wants to be transferred to a different court of the same level (TAIEX JLS Report on Judiciary March 2007).

Financial resources for the courts are now allocated in a special part of the State budget. Each court estimates its financial needs and transmits the data to the Judicial Council. It is the responsibility of the Judicial Council to then prepare an overall budget proposal and pass it on to the Government (art. 75 and 110 of the Law on Courts). For the first time in 2007, after the adoption of the Law on Judicial Training, the budget of the Judicial Training Centre – under the wing of the Supreme Court - has been included in the overall budget proposal. The Government may adjust the allocation and the Parliament ultimately approves the budget. The allocation in the budget is not divided per court, but it is the Administrative Office attached to the Supreme Court that distributes the financial resources among them. However, the distribution criteria are not clear.

### **Juvenile Justice System reform**

Assessments made by UNICEF have shown that juvenile crime in Montenegro is increasing, in particular crime involving violence and drugs.

The Montenegrin government has made efforts to move the problem of juvenile crime higher up the political agenda. In 2003, Montenegro established a Commission for Child Rights. And in 2004 it adopted the National Plan of Action (NPA) for Children, which is based on the poverty reduction strategy paper (PRSP) and the Millennium Development Goals. The NPA serves as a framework for developing strategies, policies and programmes for children and has set specific targets for 2010.

In the last two years, UNICEF has been prominent in assisting Montenegro in implementing part of the NPA in the area of juvenile justice, using key funding from SIDA. The most important results of this project - known as “Children’s Chance for Change” - were amendments to relevant legislation, increased capacity of key stakeholders, and the creation of an inter-ministerial mechanism that is now leading the process of juvenile justice reform.

Alternative measures and sanctions for juvenile offenders have been included in the Montenegrin criminal legislation<sup>4</sup>. In 2004 the Ministry of Justice of Montenegro established a multi-sectoral commission focused on Juvenile Justice Reform. The commission is composed of representatives from the judiciary, police, social sector, education, the Ombudsman, and other professionals directly engaged in work with juvenile offenders.

However, there is a need to build upon the results achieved so far and to go further. Current legislation does not fully incorporate the provisions of the UN Convention on the Rights of the Child and other relevant international instruments. Montenegro still lacks a comprehensive Juvenile Justice Code. And it has no specialised juvenile justice courts and departments, nor any specific juvenile detention facilities.

A joint EC-Council of Europe initiative helped to establish a probation service in Montenegro with the purpose of introducing alternative sanctions thus facilitating re-integration of offenders into society, but it targets only adults. There is a need to develop a juvenile probation system. So far, the development of community-based alternatives for juvenile offenders has focused on a pilot project in Bijelo Polje, a northern municipality and the third

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<sup>4</sup> Victim/Offender settlement and Community based work for ecological, cultural and humanitarian purposes has been included in the Criminal Code and Criminal Procedure Code amendments adopted in July 2006

largest in Montenegro. Additional assistance is required to spread the mechanism to other municipalities.

Since 2003, Montenegro has had an independent system for monitoring human rights violations – the Ombudsman Institution. In 2006 the Ombudsman, with the help of UNICEF, started preparing the groundwork for legislation for the appointment of a Deputy Ombudsman for children. However, the capacity to monitor children's rights, and possible violations, are still weak.

Juvenile justice professionals still lack training on child rights and the procedures necessary to guarantee those rights; adequate rehabilitation and prevention programmes; and alternative and modern practices in dealing with juvenile offenders. A training needs assessment and strategy needs to be developed that covers all relevant stakeholders (judges, police, prosecutors, correctional staff and staff responsible for supervision), in consultation with the National Commission on Juvenile Justice Reform. Relevant academic institutions also need to update/revise their curricula in this area.

### **3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact (where applicable)**

The project will seek to strengthen the independence and efficiency of the judiciary as well as its capacity to operate more closely according to EU standards. This will allow better legislative implementation, increased citizens' confidence in the system and improved judicial cooperation within the region and EU. And more broadly, an efficient and professional judiciary will increase confidence amongst potential inward investors.

In addition, the project will complete the reform of legislation and introduce a more effective administration to deal with juvenile offenders with a long term view of reintegrating them in the society and reducing the risk of re-offending.

The project will also create public awareness about how it is possible to stipulate "policy making" within a child centred approach.

### **3.3 Results and measurable indicators:**

The project consists of advisory services to further strengthen the judiciary and juvenile justice system reforms. The project consists of two main components: one tackling overall judiciary reform and the other the juvenile justice system. Each component will be implemented by mutually inter-related activities for a total of 5 main activities.

The main general results following the implementation of the activities will be:

- increased judiciary independence reflected in the legislative framework and in the work of the Judicial Council;
- efficiency in the courts enhanced through improved budgeting process;
- a comprehensive Juvenile Justice Code in place in line with international conventions;

- a higher rate of application of alternative measures and sanctions for juveniles and a lower rate of prosecution of juveniles.

The main general measurable indicators will be:

- policy documents, laws, bylaws and Judicial Council decisions published reflect the principle of judicial independence from appointment to career development in line with EU standards;
- funds allocated to courts match priorities and needs established for the fiscal year;
- Level of compliance of the Juvenile Justice Code with international instruments and EU standards in the field, and number of relevant stakeholders trained in the new legislation;
- Number of juveniles diverted from regular court procedures and actively involved in alternative programmes for juvenile offenders.

For further details on results and measurable indicators per activity please refer to Annex 1.

### 3.4 Activities:

- **Activity 1.** Supporting the development of an action plan for implementation of the judiciary reform strategy and legislative revision (Law on Courts and other pieces of primary legislation following the adoption of the new Constitution) as well as the introduction of a Code of Ethics for judges and prosecutors and anticorruption measures in the Judiciary.
- **Activity 2.** Supporting the Judicial Council (nomination, career development of judges and prosecutors, length of their mandate) to ensure judiciary independence.
- **Activity 3.** Supporting judiciary in the court budgeting process for enhancing efficiency in courts.

Activities 1, 2 and 3 will be implemented with a twinning (for further details see Annex IV).

Direct advisory support will be provided for the legislative and institutional reform of the judiciary system, in line with the relevant acquis, Montenegrin Constitution and judiciary reform strategy (to be adopted the first quarter of 2007). The main project partners will be the Ministry of Justice and the President of the Supreme Court, as main representative of the judiciary system and President of the Judicial Council. The resident twinning advisor will be based in the Ministry of Justice.

The focus of proposed activities shall be on legal and institutional development following adoption of the Constitution and judiciary reform strategy. Particular emphasis must be given to the adoption of internal procedures, rulebooks, operating procedures and standards.

The formal part of the training to be delivered by the twinning advisors will be delivered under the institutional umbrella of the Judicial Training Centre. Training will have to ensure an improvement of the curricula already in use at the Judicial Training Centre.

- **Activity 4.** Assisting in preparing a comprehensive Juvenile Justice Code to better promote and protect the rights of children at risk and/or in conflict with the law.
- **Activity 5.** Assisting in creating capacity in the Administration of Juvenile Justice (introduction of alternative measures and sanctions, creation of community based service programmes and mediation centres).

Activities 4 and 5 will be implemented by UNICEF Montenegro (grant with an international organisation). This grant falls under “Multi-donor actions” provided for i) in the Commission’s Standard Contribution Agreement with an international organisation (SCA) and ii) in the Financial and Administrative Framework Agreement (FAFA) signed between the EC and the UN on 29 April 2003.

UNICEF , as previously stated, is already active in the area of Juvenile Justice and has piloted some interventions in Northern Municipalities with the support of SIDA ( for further details see Annex IV).

Direct advisory support will be provided to the Ministry of Justice in developing a Juvenile Justice Code and in preparing bylaws regulating internal procedures and operating procedures. Moreover, advisory support will also be provided to the Ombudsman to ensure consideration of protection of the rights of children in conflict with law within its mandate.

Direct advisory support will also be provided to increase capacity in implementing the Juvenile Justice Code and existing alternatives to criminal prosecution (introduction of alternative measures and sanctions, creation of community based service programmes and mediation centres). Target groups of this capacity building exercise will include the judiciary, police, probation officers, social workers, students and municipal officials. Training will be tailored in accordance with the following aims:

- To improve treatment of children during legal and police procedures through comprehensive training provided to *judiciary* and *police* on international juvenile justice standards, relevant legislative reforms and child rights standards of practice,
- To improve psycho-social care and protection of children in detention through comprehensive training and exposure to the latest methodologies provided to *staff dealing with children in prison* and to improve treatment of children through comprehensive training provided to *correctional officers* in international juvenile justice standards, relevant legislative and social reforms and child rights standards of practice,
- To improve social care and protection of children in conflict with law and children at risk through comprehensive training provided to *social workers and employees within institutions* for placement of juveniles in conflict with law,
- To increase knowledge and understanding of child rights through comprehensive training provided to *students* of the Police Academy, Psychology, Pedagogy and other relevant Faculties,
- To improve psychosocial care and protection of children in conflict with the law and children at risk in **municipalities** through comprehensive **training of local stakeholders on alternative care and protection programmes.**



### **3.5 Conditionality and sequencing**

The project includes the following conditionalities:

1. Adoption of the new Constitution and introduction of the principle of independence of judiciary;
2. Adoption of the judiciary reform strategy by the government;
3. Adoption of the relevant legislation;
4. Appointment of counterpart personnel allocation of working space and facilities by the beneficiary before the launch of the tender process;
5. Participation by the beneficiary in the tender process as per EU regulations;
6. Appointing the relevant staff by the beneficiaries to participate in capacity building activities, working groups, steering and coordination committees, as per work plan.

In the event that conditionalities are not met, suspension or cancellation of projects will be considered.

### **3.6 Linked activities**

In the context of judicial reform, the CARDS programme, totalling approx. €4 million, has focussed on developing initial and in-service training for judges, prosecutors and court support staff, and continues to strengthen the judicial training centre and prison administration. Under previous assistance, the Government has addressed legislative obstacles to career development in the judiciary by adopting a new law on judicial training and professional skills development. Under the law, mandatory training for judges has been introduced. Its mandate has also been extended to prosecutors' training and the Judicial Training Centre has been included into the Supreme Court's budget. A light twinning for prosecutors training will be launched soon and will be delivered under the JTC extended mandate. There is still a need to complete the legislative framework in other areas related to appointment and career development of judges and to make full use of the training curricula developed. This project will address these issues and also complement the activities aiming at the set up of a probation service to oversee alternative sanctions to imprisonment by introducing the same concept for juvenile offenders.

In the juvenile justice area, the same CARDS programme is funding activities implemented by the NGO 'Save the Children' under the framework of the 2006 civil society programme aiming at setting up of a Centre for consultation, social integration and rehabilitation of children at risk as well as rehabilitation of the Juvenile Correctional Facility in Podgorica.

The project will also complement EC regional assistance creating linkages between the regional JHA programmes, in particular CARDS 2002 "Development of a reliable and functioning Penitentiary system respecting fundamental rights and standards, and enhancing of regional networking & co-operation". The almost finalised project CARDS 2003 "Development of a reliable and functioning judicial systems and enhancing of international judiciary cooperation" contributed significantly to the development of the draft strategy for the Montenegrin judiciary and the new project will build upon its results as well by developing the action plan for the implementation of the mentioned strategy.

U.S.A. has also being active although is now phasing out. USAID supported mainly court computerisation, court management and introduction of mediation. As far EU Member States

are concerned specific inputs have been provided. France funded training for prosecutors. The Netherlands and Luxembourg supported a court monitoring project implemented through OSCE. In prison reform CoE and OSCE were active on the legislative side and together with EU delivered training to penitentiary staff. SIDA funded UNICEF activities in Montenegro in the area of juvenile justice that we propose to continue.

### 3.7 Lessons learned

Although impact realised through the previous assistance overall is satisfactory, a number of challenges remain:

- *Legal Reform*: Initial timelines for the adoption of legal instruments are not always honoured, leading to delays in implementation and causing difficulties in project implementation. Agreed legal instruments are commonly subject to significant change prior to adoption. Therefore, in the context of this project we will adopt a stronger conditionality.
- *Enforcement*: In previous years, a large focus has been on establishing the legal framework conditions in the country. The capacity to enforce the law, however, has received insufficient attention, leading to a situation where legal reform is rather well advanced, but the law enforcement and implementation has not followed on an equal par. Therefore, this project put an emphasis on creating capacity for implementation.
- *Conditionalities*: Often project implementation is hampered by either insufficient staff and resources allocated to (newly established) institutions or insufficient operational funds available in the government budget to allow for appropriate implementation of the mandate of the concerned departments. The project will put a stronger conditionality in assuring that sufficient operational funds are available in the government budget.
- *Coordination within the government*: Further improvements – in line with the spirit of EU accession– could be realised in a stronger government leadership in the coordination efforts among the ministries and departments and a stronger focus on operational coordination and harmonisation of policies. Inter-sector cooperation, where required, will be assisted and enhanced. For instance, linking reform of the juvenile justice system with social protection and child care reform is the added value of this project. Children deserve the building of a holistic system of services for them.
- *Advocacy and Awareness*: Need for informing the general public on the reform process still exists and will be taken into consideration during the course of project implementation. Development of partnerships with other international agencies, organisations and bilateral donors active in the same field prove to be solid base for raising awareness and improve advocacy.
- *Cross cutting issues*: An important lesson learned during the CARDS period is that appropriate mainstreaming of cross-cutting issues would significantly be stimulated through the mobilisation of specific expertise. In a similar vein as above, specific expertise may be mobilised under the twinning covenant and the UNICEF grant to target support for the mainstreaming of cross-cutting issues (see also further below).

#### **4. Indicative Budget (amounts in M€)**

Two separate contracts are foreseen under this project fiche: one twinning and one grant with UNICEF. Under contract 1 (approx. 1.5 M€) – TWINNING - will be implemented Activity 1, 2 and 3. Under contract 2 (approx. 0.5 M€) – GRANT with UNICEF – will be implemented Activity 4 and 5. Both contracts will be 100% funded by the EC.

#### **5. Indicative Implementation Schedule (periods broken down per quarter)**

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 1	Q2 2008	Q1 2009	Q1 2010
Contract 2	-	Q2 2008	Q3 2009

#### **6. Cross cutting issues (where applicable)**

The mainstreaming of the cross cutting issues is addressed on two levels:

- 1) How the internal policies, structure or operating procedures of the beneficiary will conform with or promote the cross cutting issues set out
- 2) How the project's outputs (e.g. laws, regulations, policies, action plans, etc.) will address the cross cutting issues set out below.

##### **6.1 Equal Opportunity**

There is an extensive legislation that has been developed with a gender sensitive approach. A well trained judiciary will allow that provisions on gender are properly enforced.

The reform and modernisation of the judiciary will aim at providing equal opportunities for women in terms of access to employment, promotion, equal wages, and social benefits.

Equal treatment and opportunities for women will be realised through provisions that take into account working capacities and family obligations. In particular, considering that the majority of the project is devoted to capacity building, curricula and delivery mechanism (place and time schedule) of training programmes should be thought of so as to encourage women's participation.

In general, gender needs will be considered as an analytical instrument, from programme design onwards.

##### **6.2 Environment**

There is extensive legislation that has been developed on environment protection. A well trained judiciary will allow those to be properly enforced.

##### **6.3 Minorities**

There are legislative provisions for protection of minority rights. A well trained judiciary will allow those provisions are properly enforced.

In order to develop a fair and accountable judicial system, the project should assist beneficiaries in implementing mechanisms to ensure equitable representation of ethnic minorities (as foreseen in the 1992 Constitution and in the draft of the new Constitution) so as to reflect the ethnic diversity of Montenegrin society.

## **ANNEXES**

- 1 - Log frame in Standard Format
- 2 - Amounts contracted and Disbursed per Quarter over the full duration of Programme
- 3 - Reference to laws, regulations and strategic documents:
  - Reference list of relevant laws and regulations
  - Reference to AP /NPAA / EP / SAA
  - Reference to MIPD
  - Reference to National Development Plan
  - Reference to national / sectoral investment plans
- 4 - Details per EU funded contract

## ANNEX 1: Logical framework matrix in standard format

LOGFRAME PLANNING MATRIX for Project Fiche	Programme name and number Justice and Home Affairs	
<b>Justice Reform</b>	Contracting period expires 2 years after signing of the FA	Disbursement period expires 5 years after signing of the FA
	Total budget : 2M€	IPA budget: 2M€

Overall objective	Objectively verifiable indicators	Sources of Verification	
The overall objective is to support the building of an independent and efficient judicial system and the promotion and protection of human rights of children and youth in conflict with law.	.		
Project purpose	Objectively verifiable indicators	Sources of Verification	Assumptions
1.Implementation of the Montenegrin judiciary reform 2. Implementation of the juvenile justice system reform	1.Independence, professionalism and efficiency of judiciary increased 2.Treatment of children and youth improved in line with relevant EU, COE and UN international instruments	1. EC and CoE Reports Independent assessments including civil society reports 2. EC, CoE and UN reports Ombudsman Reports	Government and judiciary commitment to follow the judiciary strategy and National Action Plan for Children
Results	Objectively verifiable indicators	Sources of Verification	Assumptions
1.1 Action plan for implementation of judiciary reform strategy adopted 1.2. Main pieces of primary legislation which reflect principle of judicial independence revised and implemented 1.3.Code of Ethics and anticorruption measures introduced in judiciary	1.1Government decision on the adoption of the action plan 1.2. Publication of the amended laws and judiciary trained on new legislation (100 to 120 participants to training) 1.3.Decrease of number of cases of corruption amongst judges and prosecutors	1.1 Government website 1.2. Official Gazette Courts statistics Judicial Training Centre reports 1.3. Agency for Anticorruption statistics, Monitoring Reports of the Commission for fight against organised crime and corruption	Government commitment to judiciary reform Willingness of judiciary to participate in training
2.1Judicial Council selected and functioning	2.1 Judicial Council decisions reflect the principle of judiciary independence and an increased efficiency	2.1 Judicial Council Reports Independent reports/verification of level of compliance with EU standards	Adoption in the new Constitution of the principle of judiciary independence / Nomination of the new Judicial Council
3.1 Court budgeting process improved and responsible fiscal priorities established in each court	3.1 Allocation of funds to courts matches priorities and needs/Relevant staff trained in court budgeting (50 to 80)	3.1Court budget reporting	

Results	Objectively verifiable indicators	Sources of Verification	Assumptions
<p>5.1 Higher rate of application of alternatives measures and sanctions to juveniles/Lower rate of prosecution of juveniles</p> <p>5.2 Awareness on international standards in juvenile justice increased</p> <p>5.3 Police, educational and correctional officers' knowledge of practical tools needed to apply a child-centred approach when working with children increased</p> <p>5.4 Public awareness in municipalities on advantages of developing Community based work programmes</p> <p>5.5 Curricula of relevant Faculties programmes revised to better reflect international standards of care and protection of children at risk and in conflict with the law</p>	<p>5.1 Number of juveniles in diversion programmes</p> <p>5.2 Number of juvenile justice professionals and law, psychology, social work, police students trained on international standards for children protection (150 to 250)</p> <p>5.3 Number of police educational and correctional officers representatives trained (50 to 80)</p> <p>5.4 Number of municipalities with developed and implemented Community Based Programmes for Juveniles</p> <p>5.5 Number of Faculties' programmes that incorporate lecturers on International Instruments on Juvenile Justice.</p>	<p>5.1 Probation Office Reports</p> <p>Court statistics</p> <p>5.2 Reports on training attendance</p> <p>5.3 Case management statistics in correctional Institutions</p> <p>5.4 Court statistics on number of children diverted from regular court procedure to municipal Community based programmes for children in conflict with law</p> <p>5.5 Faculties curricula published in University website</p>	<p>Ministry of Justice, State Prosecutor, Probation Office, Ministry of Labour and Social Affairs and judiciary commitment to share tasks and responsibilities of juvenile justice administration</p>
Activities	Means	Costs	Assumptions
<p>Activity 1: Advisory services to support development of an action plan for implementation of judiciary reform strategy and legislative revision</p> <p>Activity 2: Advisory services to support the Judicial Council</p> <p>Activity 3: Advisory services to support judiciary in court budgeting process</p> <p>Activity 4: Advisory services to support preparation and adoption of a comprehensive Juvenile Justice Code</p> <p>Activity 5: Advisory services to strengthen Administration of Juvenile Justice</p>	<p>Activities 1,2 and 3: Twinning</p> <p>Activities 4 and 5: Grant to international Organisation (UNICEF)</p>	<p>Activities 1,2 and 3: 1MEuro</p> <p>Activities 4 and 5: 0.5 M Euro</p>	

## ANNEX 2: Amounts (in million €) Contracted and disbursed by quarter for the project:

<b>Contracted</b>	<b>2008 Q1</b>	<b>2008 Q2</b>	<b>2008 Q3</b>	<b>2008 Q4</b>	<b>2009 Q1</b>	<b>2009 Q2</b>	<b>2009 Q3</b>	<b>2009 Q4</b>	<b>2010 Q1</b>
Contract 1					1.5				
Contract 2		0.5							
<b>Cumulated</b>		<b>0.5</b>	<b>0.5</b>	<b>0.5</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>
<b>Disbursed</b>									
Contract 1					0.900		0.450		0.150
Contract 2		0.4					0.1		
<b>Cumulated</b>		<b>0.4</b>	<b>0.4</b>	<b>0.4</b>	<b>1.30</b>	<b>1.30</b>	<b>1.85</b>	<b>1.85</b>	<b>2.0</b>

## ANNEX 3: Reference to laws, regulations and strategic documents

- Reference list of relevant laws and regulations
  - Constitution of the Republic of Montenegro
  - Law on Courts
  - Law on judicial training and professional skills development
  - Criminal Code
  - Criminal Procedure Code
  - Law on Enforcement of Criminal Sanctions
  - Law on Amendments and Changes to the Law on Enforcement of Criminal Sanction
- Reference to EP and SAA

In line with the EP of 2007, Montenegro has to meet the following priorities in short-term period (1-2 years):

- *Finalise plans to reform the judicial system; remove control of recruitment and career management from the parliament and establish transparent procedures based on professional and objective criteria for selection and career advancement; rationalise the court system and modernise proceedings and improve administration; provide adequate and sustainable financing for the judicial system (page 4),*
- *Improve prison conditions, in particular as regards vulnerable groups such as juvenile offenders and those in need of psychiatric care (page 5).*

The **SAA** states under art 80:

- *In their co-operation on justice, freedom and security, the Parties shall attach particular importance to the consolidation of the rule of law, and the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the administration of justice in particular. Co-operation will notably aim at strengthening the independence of the judiciary and improving its efficiency, improving the functioning of the police and other law enforcement bodies, providing adequate training and fighting corruption and organised crime (page 42).*

- Reference to MIPD

Main objectives and priorities under the **MIPD 2007-2009** include the following:

- *Strengthen the efficiency of the judicial system to fully play its role as a guarantor of the rule of law in the country; including juvenile justice (page 14),*
- *Improvement of prison conditions, in particular as regards vulnerable groups such as juvenile offenders (page 15).*

Among the expected results the MIPD lists the following:

- *Significant progress in the implementation of reforms in the judiciary: this would include a new system for appointment and career development of the judges and prosecutors based on professional and objective criteria; the creation and institutional development of the High Judicial Council as the organ responsible for human resources management and monitoring and evaluation of the work of judges; the revision of parameters for financing the judiciary; the adoption and implementation of juvenile justice law (page 15),*
- *Problems of vulnerable groups being addressed (health services, education and housing) in line with anti-discrimination legislation and European standards of human rights and with the EU strategy on the rights of the child; improved situation of prisons (page 16).*

MIPD recommends the following programmes to be implemented:

- *Support to the judicial reform strategy, including for the development of the institutional capacity of the High Judicial Council and for the Centre for Education in Judiciary; in terms of curricula and concrete training actions; support would include upgrading procedural legislation and enforcement as well as establishing juvenile justice (page 16),*
- *Support to improving prison conditions, including juvenile and persons with special needs imprisonment, and enhancement of security system (page 17).*

- Reference to National Development Plan

Not applicable.



- Reference to national / sectoral investment plans

The proposed actions are in line with the draft strategy on judiciary reform, in particular with the first, third and fifth of the five strategic goals listed under pag.4: 1. Independence and reliability of judiciary 2. Access to justice 3. Efficiency of justice 4. Public trust in the judicial system and 5. Education.

The proposed actions are in line with the National Action Plan for Children adopted in 2004, in particular with the first of the five priority activities identified in the Plan: (I) to protect all children in risk (II) to offer the quality education for all girls and boys (III) to ensure the safe life to all girls and boys (IV) to protect children environment (V) to comprise all children.

## **ANNEX 4: Details per EU funded contract**

### *Twinning covenant:*

Under the twinning covenant Member States expertise will be mobilised to support the implementation of the judiciary reform strategy including legislative revision and training.

#### Profile of the Resident Twinning advisor (RTA)

- a) A senior magistrate with at least ten years of professional experience, including some experience in the key areas covered by this assignment: appointment, transfer, evaluation, promotion and career development of judges
- b) Sound knowledge of EU standards on those issues
- d) Strong written, oral and inter-personal communication skills
- e) Excellent oral and written English
- f) Experience in legal drafting
- g) Experience in similar technical and legal assistance assignments in third countries will be considered an asset.

In addition to the RTA, the Members State Partner (MSP) must have quick and flexible access to a pool of short and medium-term experts from the EU MS. These experts shall either work as advisors and trainers or perform specific studies or assignments within the scope of the twinning project.

#### Profile of short and medium term experts

- a) Relevant University degree
- b) Minimum of 5 years professional experience in their respective field
- c) Relevant experience in at least one of the area and subjects covered under activities 1.1,1.2,1.3
- d) Good written and oral command of English
- e) Proven contractual relation to public administration or mandated body
- d) Experience in organizing and providing training preferably for judges and court staff

### *Grant with UNICEF:*

Under the grant UNICEF will mobilise the expertise required to support the overall planning and preparation of a comprehensive Juvenile Justice Code and the creation of an appropriate Administration of Juvenile Justice. A local resident project coordinator (placed in Podgorica - UNICEF Office) will organise and supervise the deployment of short term experts with legal and/or social/educational background, who will provide training to relevant national authority staff in the preparation and implementation of the Juvenile Justice Code, in administration of alternative measures and sanctions and in development of institutional capacities, mechanisms and standards for work with juveniles in conflict with law.

This grant falls under “Multi-donor actions” provided for i) in the Commission’s Standard Contribution Agreement with an international organisation (SCA) and ii) in the Financial and Administrative Framework Agreement (FAFA) signed between the EC and the UN on 29 April 2003.