

Standard Summary Project Fiche – IPA centralised programmes
Project Fiche: 4

1. Basic information

- 1.1 CRIS Number: 2009/021-170
- 1.2 Title: **Implementation of Personal Data Protection Strategy**
- 1.3 ELARG Statistical code: 01.24
- 1.4 Location: Montenegro

Implementing arrangements:

- 1.5 Contracting Authority: Delegation of the European Commission to Montenegro
- 1.6 Implementing Agency: N/A
- 1.7 Beneficiary (including details of project manager):

Government of Montenegro
Ministry of Interior and Public Administration (MIPA)
Bulevar Svetog Petra Cetinjskog 22, 81000 Podgorica, Montenegro
Project manager: Svetozar Djurovic, Secretary of the MIPA
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Financing:

- 1.8 Overall cost: 1,200,000 EUR
- 1.9 EU contribution: 700,000 EUR
- 1.10 Final date for contracting: Two years from the date of the conclusion of the Financing Agreement
- 1.11 Final date for execution of contracts: Two years from the final date for contracting
- 1.12 Final date for disbursements: One year from the final date for execution of contracts.

2. Overall Objective and Project Purpose

2.1 Overall Objective:

To ensure the realization of the fundamental right of protection of personal data, and strengthen cooperation with European Union in this respect

2.2 Project purpose:

To strengthen the capacity of Montenegro for protection of personal data and implementation of the data protection legislation.

2.3 Link with AP/NPAA / EP/ SAA

European Partnership underlines as **short term** priorities the following:

- Adopt legislation on the protection of personal data and set up an independent Data Protection Supervisory Authority
- Take the necessary steps to prepare for the conclusion of a cooperation agreement with Europol.

And as **mid term** priorities the following:

- Ensure the smooth functioning of the Data Protection Supervisory Authority.
- Ensure the capacity of state authorities, in particular law enforcement bodies, to implement the legislation on protection of personal data.

Stabilization and Association Agreement between the European Communities and their Member States and the Republic of Montenegro, Article 81, provides that upon the entry in force of this Agreement, Montenegro shall harmonize its legislation in the field of personal data protection with the Community law and with other European and international privacy law, and Montenegro shall establish independent supervisory authority with financial and human resources sufficient to carry out efficient control and guarantee implementation of the law in the field of personal data protection.

Montenegro 2008 Progress Report, EC under point 4.3.6 regarding Personal Data Protection underlines the following:

“Progress in the area of protection of personal data was limited to the adoption of a new strategy in June 2008. A new law on protection of personal data has not yet been adopted.

Current legislation is not in line with the Personal Data Protection Directive. In the absence of an independent and efficient data protection supervisory authority, existing data protection rules have not been implemented.

The situation in the area of personal data protection remains a cause for serious concern. Montenegro urgently needs to harmonise its legislation with Community rules, in particular as it had committed itself to do so with effect from the entry into force of the Stabilisation and Association Agreement.”

2.4 Link with MIPD

MIPD 2009-2011 - in chapter 2.2.3 Priority axis 3: Ability to assume the obligations of membership - underlines the following:

“The setting up of a system for protection of personal data, including the establishment of an independent authority, is a key obligation under the SAA. A Law on data protection has been drafted and a strategy prepared, additional assistance is however required to support the independent authority to be established following the adoption of the new legislation.”

2.5 Link with National Development Plan

N/A

2.6 Link with national/sectoral investment plans

N/A

3. Description of project

3.1 Background and justification:

Personal data protection as fundamental human right is guaranteed by Montenegrin Constitution (by Article 43).

Montenegro still does not have its own law on personal data protection. Instead of it, Montenegro applies the law on personal data protection from previous State Union Serbia and Montenegro. However, this law has certain lacks, and its provisions are not entirely in accordance with EU legislation and international conventions. Therefore provisions of this aforementioned law are not applicable in the coming time, especially because of spread development and usage of information technology facilities. Some of these provisions are out of date inappropriate.

Montenegro does not have either its own Independent Supervisory Institution which should provide efficient control and guarantee implementation of the Law on personal data protection. Furthermore, it is not prescribed which Ministry or other authority is competent for public administration affairs relating to the personal data protection.

Montenegrin officials have no previous experience of managing personal data protection issues, which were the responsibility of the Belgrade-based federal authorities up until independence in 2006. The Ministry of interior and public administration have made clear that they are anxious to adopt best european and international standards and practices. But Personal data protection is completely new area and Montenegro will have to establish creative framework for this issue, including institutional, information technology, human resources and all other preconditions for this system.

Government of Montenegro adopted Personal Data Protections Strategy and corresponding Action Plan has also been adopted. By adoption of the systemic law on personal data protection, and establishing institutional, human resource and all other required capacities for its implementation, Montenegro will regulate the protection and realization of this fundamental human right.

The most important reasons for adopting and implementing regulations regarding data protection activities are

- to ensure the realization of the guaranteed right and freedom to personal data protection in accordance with Article 43 of the Constitution of Montenegro;
- the necessity to adopt new legal framework for personal data protection;
- the need to fulfil obligations resulting from the signed Stabilization and Association Agreement (Article 81);
- to harmonize domestic legislation with the EU law;
- to ensure conditions for realization of obligations resulting from the membership in the Council of Europe;
- to realize the objectives of the Administration Reform Strategy in Montenegro;

Personal data protection is an important part of a broader right to privacy, in theory known by the name 'Information Privacy'. Personal data protection is one of the subcategories of the fundamental human right to privacy. This is a matter which is thoroughly and strictly regulated by several international legal instruments that will have to be implemented by Montenegro in its legal system in view of international integrations.

With the aim of more efficient and more effective personal data protection, it is necessary to regulate measures which are suitable to prevent the data from a private life of an individual to be published publicly or transmitted to other entities beyond the purposes laid down by the law.

The confidence of citizens in the institutions of the public and private sectors is one of the main preconditions for efficient implementation of expected Law on Personal Data Protection. Ensuring the security of citizens through establishment of adequate personal data protection mechanisms and continuous informing of the citizens of their rights and obligations in this sphere, the Government of Montenegro will strengthen their confidence in the institutions of public and private sectors. It is necessary to raise the awareness that the keeping of filing systems will reduce the abuse and unlawful disclosure or use of the data.

Independent authority for personal data protection will be the basis for implementation of this law in practice. Full independence of this authority must be ensured, because it must have the power of supervision even in case of the Government (police, judiciary..., primarily health care institutions in the wider sense of public sector...), as one of the major recipients (and the main one). The independent authority must also have the competence to implement such supervision. Because of that approximately 15 people will be hired in Independent Supervisory institution.

The Directive 95/46/EC prescribes in Article 28 that each Member State shall provide that one or more public authorities are responsible for monitoring the application within its territory of the provisions adopted by the Member States pursuant to this Directive. These authorities must act with complete independence in exercising the functions entrusted to them. Each Member State shall provide that the competent authorities are consulted when drawing up administrative measures or regulations relating to the protection of individuals' rights and freedoms with regard to the processing of personal data.

Schengen Convention, in Article 114, requires independent supervision, by prescribing that each Contracting Party shall designate a supervisory authority responsible in accordance with national law for carrying out independent supervision of the data file of the national section of the Schengen Information System and for checking that the processing and use of data entered in the Schengen Information System does not violate the rights of the data subject. For this

purpose, the supervisory authority shall have access to the data file of the national section of the Schengen Information System.

In accordance with the draft Personal Data Protection Act and the prevailing practice in the EU Member States, the Independent Agency shall ensure:

- Review and supervision of the personal data filing systems;
- Guidelines regarding the manner of collection, storage, processing and publishing of personal data;
- Supervision over collection, storage, processing and publishing of personal data.

After adoption of the Personal Data Protection Act, new secondary legislation relating to the personal data protection will be developed. The guide for preparation of these by-laws is Personal Data Protection Strategy. Thus implementation of Personal Data Protection Strategy has component related to establishment of specific independent institution for Personal data Protection and strengthening of its capacities and another for further development and implementation of secondary legislation in field of Personal Data Protection.

3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact

The project's main impact will seek to strengthen the independence and efficiency of new Independent institution for Personal Data Protection as well as its capacity to operate more closely according to EU standards. This will allow better secondary legislation and its implementation.

Improving understanding and management of Personal Data Protection in Montenegro will have a **positive impact** on the fundamental right and freedom to personal data protection, and strengthen cooperation with European Union.

Moreover, it will have a **catalytic effect** on the more positive aspects of Personal Data Protection which in turn will have an increasingly important effect on the economy given the rise and rise of Montenegro's tourist industry.

Sustainability of the results of the project will be enhanced by securing Government commitments to provide the necessary financial and human resources to manage personal data protection. The project will provide training of professionals in Independent Institution as well as in other institutions.

3.3 Results and measurable indicators:

Result 1: Established Independent Data Protection Institution, focused on the implementation of the Personal Data Protection Act and on protection of the right to privacy and other human rights and fundamental freedoms.

Objectively Verifiable Indicator:

- Members of the Managing Board and Director appointed;
- Offices ensured;
- At least 15 officials in Independent institution employed according to the Rulebook on Internal Organization and Systematization of work posts of the Independent institution
- At least 5 people employed and trained to conduct inspection related to the implementation of the Personal Data Protection Act.

Result 2: Legislation harmonised with the EU acquis

Objectively Verifiable Indicator:

- At least 15 amended laws and at least 50 amended by-laws in accordance with Personal Data Protection Act.
- Clarified needs for amending the Personal Data Protection Act in accordance with new EU legislation from this field.

Result 3: Improved capacity for managing personal data

Objectively Verifiable Indicator:

- At least 15 employees in Independent institution trained.
- At least 100 employees in state authorities and in local self-government trained;
- At least 30 employees in public institutions across different sectors of work trained;
- At least 20 representatives of private sector trained.

Result 4: Raised public awareness on the Personal Data Protection Act and personal data protection system.

Objectively Verifiable Indicator:

- Web page of Independent institution prepared and used (number of clients hits)
- At least 5 workshops, seminars and media presentations conducted.

Result 5: Developed IT infrastructure allowing efficient and lawful processing of personal data

Objectively Verifiable Indicator:

- Developed software in use;
- Secured data and the integrity of computer systems in a physical sense (safety and protection of information).

3.4 Activities:

Activity 1: Establishing an Independent Data Protection Institution

- 1.1. Public announcement of vacancies for the staff of the Independent Institution, according to its Rulebook on Internal Organization and Systematization of work posts;
- 1.2. Selection and equipping of the offices the Independent Institution (Purchase of equipment: computers, office furniture, telecommunication equipment...., server,.... – announcement of the public tender);
- 1.3. Ensuring security and integrity of technical components of the information system (hardware),
- 1.4. Ensuring security and integrity of programme components of the system (software) and of the data,
- 1.5. Securing premises and buildings etc. against accidental and deliberate damage,
- 1.6. Maintaining and improving the standards of regular operating procedure.

- 1.7. Preparation of the Inspection Action Plan of the Independent institution,
- 1.8. Professional training and development of the persons responsible for Inspection function of the Data Protection Institution.

Activity 2: Harmonising the legislation

- 2.1. Preparation of catalogue of all regulations setting out the obligation to keep personal data filing systems and who is their controller;
- 2.2. Identifying regulations in the field of public administration that need to be brought in line with the systemic law, in particular:
 - state authorities competent for large filing systems (Register of Electors, Register of Passports, Register of Identity Cards, Register of Weapon Owners, Register of Car Owners, Register of Drivers' Licences, Registers of Births, Marriages and Deaths, registers of nationality, registers of residence, Register of Taxpayers, Land Registry, Central Personnel Register...),
 - state authority competent for penal records,
 - state authority competent for records on misdemeanours,
 - judiciary,
 - prosecutors,
 - other state authorities managing smaller registers,
 - police,
 - services responsible for protection of national safety;
- 2.3. Preparation and adoption of the action plan and formation of working groups responsible for amendments and supplements to the regulations identified in the field of public administration;
- 2.4. Identifying regulations that need to be brought in line with the systemic law and formation of working groups responsible for amendments and supplements to the regulations identified in the following fields:
 - health care sector,
 - pension and disability insurance,
 - labour,
 - education system and electric power industry;
- 2.5. Preparation and adoption of the action plan and formation of working groups responsible for amendments and supplements to the regulations identified in the fields of health care, pension and disability insurance, labour, education system and electric power industry;
- 2.6. Identification and harmonization of internal documents, processes and procedures of other legal persons;
- 2.7. Preparation and issuing of the manual for the filing system controllers to inform them of their rights and obligations;
- 2.8. Preparation and issuing of the manual for the citizens to inform them of their rights and obligations;
- 2.9. Entering a selected number of records into the Register (pilot project), e.g.:
 - o Register of Identity Cards,
 - o state authority competent for penal records,
 - o prosecutors' offices,
 - o Police...

2.10. Preparation of a complete List of all EU regulations in field of Personal data protection and analysis of the compliance of the Montenegro legislation in the field with the EU acquis.

2.11. Draft Recommendations for further harmonisation of the Personal Data Protection Act.

Activity 3: Training on data protection

3.1. Revision of the Plan for professional training and development for those responsible for personal data protection;

3.3. Professional training and development of the persons employed in state authorities and in local self-government;

3.4. Professional training and development of the persons employed in public institutions across different sectors of work;

3.5. Professional training and development of the persons employed in the private sector.

Activity 4: Awareness raising campaign

4.1. Preparation of a plan for informing of the public regarding the implementation of the Act;

4.2. Direct marketing focused on the state administration authorities, local self-government, chambers, CSOs...;

4.3. Preparing the web page of the Independent Institution

Activity 5: IT-related activities

6.1. Develop IT system project documentation;

6.2. Prescribing compulsory standards and norms to be applied by technical staff, i.e. information technology specialists;

6.3. Organizing media campaign related to the presentation of the functions of the Register.

The planned project activities will be implemented through the following contracts:

Contract 1: Supply and Contract 2: Service – National contribution – to cover activities 1, 4 and 5 – supply of the necessary equipment and software and hiring of local experts for preparatory works in specific working groups.

Contract 3: Twinning– EU contribution – to cover Activities 2 and 3

3.5 Conditionality and sequencing:

There are a number of preconditions necessary for implementation of this project:

- The first precondition for this project is adoption of the Personal Data Protection Act in 2009. First steps in this direction have already been made. Strategy for Personal Data Protection is adopted by Government of Montenegro in June 2008. The corresponding Action plan has also been developed. Personal Data Protection Act is in procedure, and very soon Law Proposal will be discussed on Government session.
- Another precondition is related to identification of the ministry competent for public administration affairs relating to the personal data protection. By the Regulation on Organization and Method of Operation of State Administration, it is necessary to stipulate the competence of the Ministry competent for Internal affairs and public administration affairs relating to the personal data protection. Competent ministry for this area will be identified in the Personal data Protection Act.
- After adoption of the Personal Data Protection Act next step will be establishment of the Independent institution (with possible name: Agency for Personal data Protection) aimed to perform personal data protection activities. Preparation and adoption of the Rulebook on Internal Organization and Systematization of work posts in this independent supervisory authority is considered as previous step. Independent Institution will be identified by Personal Data Protection Act.
- Appointment of key personnel, allocation of working space and facilities for Independent Supervisory Institution in initial stage of this project.
- Next steps are employment of complete staff for the independent institution, providing equipment and capacity development activities Independent institution and in other institutions: appointment of relevant staff by the beneficiary to participate in capacity building as well as in working groups, study visits, steering and coordination committees, as per work plan. Especially this is important for those appointed to harmonize all legislation that prescribes maintaining of any register with personal data.

3.6 Linked activities

There is no previous financed programme in Montenegro in the field of personal data protection.

3.7 Lessons learned

A number of generic lessons have been learned in course of the implementation of EU funded projects. The most outstanding one can be summarized as follows:

Legal Reform in the sector: Initial timelines for the adoption of legal instruments are not always honoured and sometimes postponed, leading to delays in implementation and causing difficulties in project implementation. Agreed legal instruments are commonly subject to significant change prior to adoption. Delays in adoption of various laws continue to and have significant impact on the planning and practical delivery of projects.

Experience gained in previous projects shows that any delay between project design and start of implementation may reduce the relevance of the project or may modify priorities. The management bodies should have the flexibility to make some modifications in target

legislation, target group and eligible activities, when these are imposed by the changed environment.

Conditionality: 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 department.

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.

4. Indicative Budget (amounts in €)

			SOURCES OF FUNDING									
			TOTAL EXP.RE	IPA COMMUNITY CONTRIBUTION		NATIONAL CONTRIBUTION					PRIVATE CONTRIBUTION	
ACTIVITIES	IB	INV	EUR (a)=(b)+(c)+(d)	EUR (b)	%	Total EUR (c)=(x)+(y)+(z)	%	Central EUR (x)	Regional/ Local EUR (y)	IFIs EUR (z)	EUR (d)	%
Activity 5												
contract 1 Supply		X	200,000			200,000	100%	200,000				-
Activity 1 and 4												
Contract 2 Service	X		300,000			300,000	100%	300,000				
Activity 2 and 3												
contract 3 Twinning	X		700,000	700,000	100%							-
.....												
TOTAL IB			1,000,000	700,000	70%	300,000	30%	300,000				
TOTAL INV			200,000			200,000	100%	200,000				
TOTAL PROJECT			1,200,000	700,000	58.3%	500,000	41.7%	500,000				

Amounts net of VAT

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

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 3	Q3 2009	Q1 2010	Q3 2011

The indicative timetable for the management of the national contribution follows:

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 1	Q3 2009	Q4 2009	Q4 2009
Contract 2	Q4 2009	Q1 2010	Q3 2011

6. Cross cutting issues

6.1 Equal Opportunity

Equal opportunity for men and women will be secured through appropriate information and publicity material, in the design of projects and access to the opportunities they offer and through early monitoring of the composition of take up.

An appropriate men/women balance will be sought on all the managing bodies for the programmes and its projects.

During capacity building activities and trainings through the twinning programme specific attention will be given to equal treatment and opportunities for women.

6.2 Environment

The project is expected to have a neutral impact on the environment.

6.3 Minorities

The project will address minorities' issues as an integral part of its overall objectives and project purpose. While implementing the project all minority related topics will be respected in raising awareness and trainings.

ANNEXES

Annex 1- Log frame in Standard Format

Annex 2- Amounts contracted and Disbursed per Quarter over the full duration of Programme

Annex 3 - Reference to laws, regulations and strategic documents:

Annex 4- Description of the Institutional framework

Annex 5- Details per EU funded contract

Annex 1- Log frame in Standard Format

LOGFRAME PLANNING MATRIX		Programme title and number: Implementation of Personal Data Protection Strategy (2009/021-170)	
		Contracting period expires two years from the date of the conclusion of the Financing Agreement	Disbursement period expires one year from the final date for execution of contracts
		Total budget: 1 200 000,00 €	IPA 2009: 700 000,00 €
Overall objective	Objectively Verifiable Indicators	Sources of Verification	
To ensure the realization of the fundamental right of protection of personal data, and strengthen cooperation with European Union in this respect	<ul style="list-style-type: none"> • Positive conclusions of the EU Commission, European Parliament, and Council of Europe in period 2008-2010; • Provisions of Personal Data Protection Act completely harmonised with the <i>Acquis</i>. 	EU Progress reports 2009 and 2010, European Parliament and Council of Europe Reports;	
Project Purpose	Objectively Verifiable Indicators	Sources of Verification	Assumptions
To strengthen the capacity of Montenegro for protection of personal data and implementation of the data protection legislation.	<ul style="list-style-type: none"> • Independent Institution established; • Personal Data Protection Action Plans adopted by all relevant institutions; • Primary and secondary legislation in other fields harmonized with the systemic Personal Data Protection Act; • Information exchange with EU Member States and other countries; • Automatically connected personal data filing systems; • Standardised electronic access to the personal data filing system by means of IT ; • Case Law; 	<ul style="list-style-type: none"> • Reports of the Ministry competent for public administration affairs relating to the personal data protection; • Independent Institution Annual Report; • Statistics excerpt on information exchange between Montenegro and EU Member States, and other countries; • Project Report; 	

Results	Objectively Verifiable Indicators	Sources of Verification	Assumptions
<p>Result 1: Established Independent Data Protection Institution, focused on the implementation of the Personal Data Protection Act and on protection of the right to privacy and other human rights and fundamental freedoms.</p> <p>Result 2: Legislation harmonised with the EU acquis</p> <p>Result 3: Improved capacity for managing personal data</p> <p>Result 4: Raised public awareness on the Personal Data Protection Act and personal data protection system.</p> <p>Result 5: Developed IT infrastructure allowing efficient and lawful processing of personal data</p>	<ul style="list-style-type: none"> • Members of the Managing Board and Director appointed; • Offices ensured; • At least 15 officials in Independent institution employed • At least 5 people employed and trained to conduct inspection • At least 15 amended laws and at least 50 amended by-laws in accordance with Personal Data Protection Act. • Clarified needs for amending the Personal Data Protection Act in accordance with new EU legislation from this field. • At least 15 employees in Independent institution trained. • At least 100 employees in state authorities and in local self-government trained; • At least 30 employees in public institutions across different sectors of work trained; • At least 20 representatives of private sector trained. • Web page of Independent institution prepared and used (number of clients hits) • At least 5 workshops, seminars and media presentations conducted. • Developed software in use; • Secured data and the integrity of computer systems in a physical sense (safety and protection of information). 	<ul style="list-style-type: none"> • Reports of the Ministry competent for public administration affairs relating to the personal data protection, • Independent Institution Annual Report incl. Institution Report on Inspection; • Official Gazette of Montenegro • Recommendations on legal harmonisation in the data protection field • Reports of the Independent institution, incl. Report on realization of the Plan for Further professional training and development of the staff of the Independent institution, and other organisations; • Webcounter • Project reports • IT system project documentation 	<p>Government committed to maintain and strengthen capacities for data protection</p> <p>Community involvement and support from all entities included in this project</p> <p>Strategy for personal data protection and Action plan being implemented</p>

Activities	Resources/ means	Budget	Assumptions
<p>Activity 1: Establishing an Independent Data Protection Institution</p> <p>1.1. Staff recruitment 1.2. Selection and equipping of the offices; 1.3. Purchase of hardware, 1.4. Development of the needed software 1.5. Securing premises and buildings, 1.6. Maintaining and improving the standards of regular operating procedure. 1.7. Preparation of the Inspection Action Plan of the Independent institution, 1.8. Professional training and development of the persons responsible for Inspection function of the Data Protection Institution.</p> <p>Activity 2: Harmonising the legislation</p> <p>2.1. Preparation of catalogue of all regulations setting out the obligation to keep personal data filing systems and who is their controller; 2.2. Identifying regulations in the field of public administration that need to be brought in line with the systemic law, 2.3. Preparation and adoption of the action plan and formation of working groups responsible for amendments and supplements to the regulations identified in the field of public administration; 2.4. Identifying regulations that need to be brought in line with the systemic law and formation of working groups responsible for amendments and supplements to the regulations identified in the fields of health care, pension and disability insurance, labour and education system and electric power industry. 2.5. Preparation and adoption of the action plan and formation of working groups responsible for amendments and supplements to the regulations identified in the fields of health care, pension and disability insurance, labour, education system and electric power industry;</p>	<p>Contract 1: Supply and Contract 2: Service – National contribution – to cover activities 1, 4 and 5 – supply of the necessary equipment and software and hiring of local experts for preparatory works in specific working groups.</p> <p>Contract 3: Twinning– EU contribution – to cover Activities 2 and 3</p>	<p>National Contribution – 500.000 EUR for supply (200.000 EUR) and service (300.000 EUR)</p> <p>IPA – Twinning – 700.000 EUR</p>	<p>Ministry and public institutions fully committed to implementation of this project</p> <p>Expert and technical available during the initial stage of establishing the Independent Institution and strengthening its Human Resources capacities (2009).</p> <p>Good cooperation among all beneficiaries involved</p> <p>Motivation and willingness of the staff of the Independent Institution and other relevant actors dealing with personal data to participate in the programs of the professional development and trainings</p> <p>Obtaining the list of the legal and natural persons, other than controllers to whom personal data were disclosed for their use</p> <p>Pre-conditions</p> <ul style="list-style-type: none"> • Adoption of the Personal Data Protection Act in 2009 • Appointment of key personnel in Independent Agency for Personal Data Protection • Premises for new Independent institution provided • Plan for Further Professional Training and Qualification.

<p>2.6. Identification and harmonization of internal documents, processes and procedures of other legal persons;</p> <p>2.7. Manual for the filing system controllers to inform them of their rights and obligations;</p> <p>2.8. Manual for the citizens to inform them of their rights and obligations;</p> <p>2.9. Entering a selected number of records into the Register (pilot project),</p> <p>2.10. Preparation of a complete List of all EU regulations in field of Personal data protection and analysis of the compliance of the Montenegro legislation in the field with the EU acquis.</p> <p>2.11. Draft Recommendations for further harmonisation of the Personal Data Protection Act.</p> <p>Activity 3: Training on data protection</p> <p>3.1. Revision of the Plan for professional training and development for those responsible for personal data protection;</p> <p>3.3. Training of the persons employed in state and local authorities</p> <p>3.4. Training of persons employed in public institutions</p> <p>3.5. Training of persons employed in the private sector.</p> <p>Activity 4: Awareness raising campaign</p> <p>4.1. Plan for informing of the public regarding the implementation of the Act:</p> <p>4.2. Direct marketing focused on the state administration authorities, local self-government, chambers, CSOs...;</p> <p>4.3. Web page of the Independent Institution</p> <p>Activity 5: IT-related activities</p> <p>6.1. Develop IT system project documentation;</p> <p>6.2. Prescribing compulsory standards and norms to be applied by technical staff, i.e. information technology specialists;</p> <p>6.3. Organizing media campaign related to the presentation of the functions of the Register</p>			
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Annex 2- Amounts in EUR contracted and Disbursed per Quarter over the full duration of Programme

Contracted	Q1 2010	Q2 2010	Q3 2010	Q4 2010	Q1 2011	Q2 2011	Q3 2011
Contract 3	700,000						
Cumulated	700,000	0	0	0	0	0	0
Disbursed	Q1 2010	Q2 2010	Q3 2010	Q4 2010	Q1 2011	Q2 2011	Q3 2011
Contract 3	373,333		150,000		106,667		70,000
Cumulated	373,333	0	523,333	523,333	630,000	630,000	700,000

Annex 3 - Reference to laws, regulations and strategic documents:

Strategy for Personal Data Protection has been adopted in June 2008. The main objectives of this Strategy are:

- To ensure the publicity of work and supervision over the activities of public and private sectors;
- To protect the right to privacy and other human rights and fundamental freedoms with respect to the processing of personal data;
- To strengthen the confidence of citizens in the institutions of the public and private sectors which dispose of their personal data;
- To raise the level of quality of the personal data protection standardization and to harmonize legislation regulating other fields with the systemic law;
- To establish responsibilities and to introduce certain control mechanisms in all spheres of public and private sectors with the aim to reduce the disclosure of personal information to the minimum extent in terms of content required by an open and democratic society;
- To develop institution which will be responsible for monitoring and control of the use of databases containing data on individuals;
- To introduce modern information technology – control mechanisms for the lawful processing of personal data with particular focus on prevention of violation of the right guaranteed by the Constitution;

Specific objectives of the Strategy are as follows:

- To adopt the systemic Personal Data Protection Act harmonized with the EU law;
- To identify the ministry to be competent for public administration affairs relating to the personal data protection;
- To harmonize primary and secondary legislation in other fields with the Personal Data Protection Act;
- To establish independent institution the activities of which will be aimed at appropriate implementation of the Personal Data Protection Act;
- To make the public aware of the personal data protection system;
- Further professional training of the persons responsible for the personal data protection.

The List of relevant EU legislation:

Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications).

Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly

available electronic communications services or of public communications networks and amending Directive 2002/58/EC

Convention of the Council of Europe for the protection of individuals with regard to automatic processing of personal data (**ETS 108**), adopted on 28 January 1981 in Strasbourg.

Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ((which must be complied with by all member states of the Schengen border regime)

Convention on the Use of Information Technology for Customs Purposes Convention Based on Article K.3 of the Treaty on European Union, on the Establishment of a European Police Office (**Europol Convention**)

Act No 1/99 of the **Joint Supervisory Body of Europol** of 22 April 1999 laying down its rules of procedure Council Decision of 17 October 2000 establishing a **secretariat for the joint supervisory data-protection bodies** set up by the Convention on the Establishment of a European Police Office (Europol Convention), the Convention on the Use of Information Technology for Customs Purposes and the Convention implementing the Schengen Agreement on the gradual abolition of checks at the common borders (Schengen Convention).

European Convention on Protection of Human Rights and Freedoms.

Annex 4- Description of the Institutional framework

By the Regulation on Organization and Method of Operation of State Administration, it is necessary to stipulate the competence of the ministry competent for Interior Affairs and Public Administration affairs relating to the personal data protection.

Ministry competent for public administration of the Personal Data Protection will be identified with new Law, Personal Data Protection Act. Cited Law will also, identify Independent Supervisory Institution with all relevant provisions concerning the structure, authorities, etc of that Institution.

Ministry of Interior and Public Administration will be responsible for the implementation of this project with expectation that the same Ministry will be recognise as the competent ministry will be defined.

Organisational scheme of the Ministry of Interior and Public Administration is attached.

Annex 5- Details per EU funded contract

The project will be implemented through 3 contracts.

A. Contract 3: One Twinning Contract, financed by EU

A.1. Activities:

- Preparation of catalogue of all regulations setting out the obligation to keep personal data filing systems and who is their controller;
- Identifying regulations in the field of public administration that need to be brought in line with the systemic law, in particular: state authorities competent for large filing systems (Register of Electors, Register of Passports, Register of Identity Cards, Register of Weapon Owners, Register of Car Owners, Register of Drivers' Licenses, Registers of Births, Marriages and Deaths, registers of nationality, registers of residence, Register of Taxpayers, Land Registry, Central Personnel Register...), state authority competent for penal records, state authority competent for records on misdemeanors, judiciary, prosecutors, other state authorities managing smaller registers, police, services responsible for protection of national safety.
- Preparation and adoption of the action plan and formation of working groups responsible for amendments and supplements to the regulations identified in the field of public administration;
- Identifying regulations that need to be brought in line with the systemic law and formation of working groups responsible for amendments and supplements to the regulations identified in the following fields: health care sector, pension and disability insurance, labour, education system and electric power industry;
- Preparation and adoption of the action plan and formation of working groups responsible for amendments and supplements to the regulations identified in the fields of health care, pension and disability insurance, labour, education system and electric power industry;
- Identification and harmonization of internal documents, processes and procedures of other legal persons;
- Preparation and issuing of the manual for the filing system controllers to inform them of their rights and obligations;
- Preparation and issuing of the manual for the citizens to inform them of their rights and obligations;
- Professional training and development of the staff of the Independent Institution;
- Professional training and development of the persons employed in state authorities and in local self-government; and in public institutions across different sectors of work and in private sector.
- Identify complete List of all EU regulations in field of Personal data protection;
- Draft Recommendations for further harmonization of the Personal Data Protection Act

A.2. Project management - : Resident Twinning Advisor, Project Assistant and Short-term Experts

Profile of the Resident Twinning Advisor (RTA) – 18 months

- a) A senior magistrate with at least ten years of professional experience, including some experience in the key areas covered by this assignment: Personal Data Protection legislation and practise in EU and capacity building in this field
- b) Experience and profound knowledge of EU standards related to activities
- 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.
- h) Experience in new EU member states (Eastern Europe countries)
- i) Experience in Western Balkans countries

Project Assistant will assist RTA in coordination and implementation of the activities and exact profile will be decided at the level of detailed work programme.

Short term experts will have to cover relevant activities, but the exact profile will be decided at the level of detailed work programme

The beneficiary will organize tendering process for the Contracts 1 and 2.

B. Contract 1: Supply Contract financed by National Contribution. The Contract will be tendered in a timely manner, in order to guarantee the delivery of equipment (furniture, IT hardware and software) for Independent Institution for Personal Data Protection.

C. Contract 2 - is consisted of number of contracts, is financed by National Contribution and it will cover engagement of members of working groups that will draft revisions of laws and sub-laws with task to harmonize particular Montenegrin personal data-related legislation with the systemic Personal data Protection Act, participate in discussions and roundtables during the drafting process and information campaign, etc. At least 325 people will be working on these activities of harmonization mostly as members of working groups, 265 people in order to cover 53 different areas from public administration including 13 ministries and 40 other institutions and bodies, and more 60 people from local self-governments. Working groups for each area that should be amended in accordance with systemic Personal Data Protection Act will be consisted of 5 people in each group.

Ministry of Interior and Public Administration will make decisions on establishment of working groups that will revised and draft sub-laws in accordance with new systemic Personal data Protection Act. Working groups will be consisted of representatives of all relevant stakeholders. The work of working group members is not part of their regular scope of work, but it is additional engagement and it will be paid from the national budget.

Overall contribution of the EU is 700.000 EUR while national contribution is 500.000 EUR.