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**Montenegro 2019 Report**

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**Communication from the Commission to the European Parliament, the Council, the  
European Economic and Social Committee and the Committee of the Regions**

**2019 Communication on EU Enlargement Policy**

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## 1. INTRODUCTION

### 1.1. Context

Accession negotiations with Montenegro were opened in June 2012. To date 32 negotiating chapters have been opened, of which three have been provisionally closed. Montenegro continued to broadly implement the Stabilisation and Association Agreement (SAA) and the meetings of the joint bodies under the agreement took place at regular intervals.

Two negotiating chapters were opened during the reporting period and no further chapter was provisionally closed. Holding the accession conferences was made possible also due to the progress made in the area of the rule of law, as per the requirements of the Negotiating Framework. Progress towards meeting the interim benchmarks set in the rule of law chapters 23 and 24 will be key for further progress in the negotiations overall.

### 1.2. Summary of the Report<sup>1</sup>

Concerning the **political criteria** the reporting period continued to be marked by the low level of trust in the electoral framework, which needs to be revised in a comprehensive and inclusive manner. A temporary parliamentary committee on reform of electoral and other legislation was established in autumn 2018 *inter alia* for this purpose. It however still needs to deliver on its ambitious mandate. Presidential and local elections in 11 municipalities and one urban municipality took place during the reporting period. Local elections continued to take place on a rolling basis, making their international observation difficult, and leaving ample opportunities for claims of irregularities that cannot be independently evaluated.

The political scene remains fragmented, polarised and marked by lack of genuine political dialogue. Limited progress was made in re-establishing the political dialogue in Parliament in the course of 2018 with the temporary and partial return of majority of the opposition parties to Parliament and the establishment of the temporary parliamentary committee. However, following the detention of one opposition Member of Parliament in late 2018, and the allegations of corruption and illegal political party financing (the ‘envelope affair’) in early 2019, the opposition largely returned to boycotting Parliament. These allegations also triggered mobilisation of citizens through regular street protests, attempts at extra-parliamentary political dialogue and the opposition’s demands for the formation of a technical government.

Returning the political debate to the Parliament is the responsibility of all political actors. Active and constructive participation by all parties is required to enhance parliamentary accountability, oversight of the executive, democratic scrutiny and better quality of the legislation. There were no new developments in the political and judicial follow-up of the alleged misuse of public funds for party political purposes in 2012. As regards the recent allegations, the prosecution opened investigations with regard to some of the allegations, and the Anti-Corruption Agency fined the political party exposed for receiving illegal cash donation. These allegations require a credible, independent and effective institutional response.

As regards governance, there is a need to strengthen transparency, stakeholders' participation, and the government's capacity to implement reforms. A new legal framework and methodology on strategic planning should lead to better quality strategic planning, better monitoring and execution. The legal, institutional and financial environment, under which

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<sup>1</sup> This report covers the period from March 2018 to March 2019. It is based on input from a variety of sources, including contributions from the government of Montenegro, the EU Member States, European Parliament reports and information from various international and non-governmental organisations.

civil society organisations operate, improved overall. However, the genuine inclusion of civil society organisations in the policy-making process remains to be ensured in practice.

Montenegro is moderately prepared with the reform of its **public administration**. Some progress was made overall. There was good progress in particular on the medium-term policy-planning framework, merit-based recruitment, and rationalisation of the organisation of the state administration. However, strong political will is still needed to effectively address the de-politicisation of the public service and the optimisation of the state administration, inclusive and evidence-based policy development, the delegation of decision-making and managerial accountability.

Montenegro's **judicial system** is moderately prepared and some progress has been made. The legislative framework aimed at increasing the independence and professionalism of the judiciary has yet to be fully implemented. Institutional capacity has been strengthened.

Montenegro has achieved some level of preparation in the **fight against corruption**. There was some limited progress during the reporting period. However, corruption is prevalent in many areas and remains an issue of concern. The operational capacity of institutions has improved; however, all institutions should demonstrate a more proactive attitude. Challenges to the credibility, independence and priority-setting of the Anti-Corruption Agency still need to be addressed. Financial investigations and seizure and confiscation of assets remain to be improved. An initial track record of investigation, prosecution and final convictions in high-level corruption cases has been established, but the criminal justice response against high-level corruption remains too limited. Further improvements in this regard will only be possible in an environment where independent institutions are shielded from any undue influence and encouraged to fully use their powers.

In the **fight against organised crime**, Montenegro remains moderately prepared. Some progress was made in judicial cooperation and in some areas of the fight against organised crime. An initial track record of investigations into money laundering, of financial investigations and of temporary seizures of criminal assets was developed. The enhanced international police cooperation is bringing results, as illustrated by a number of high-profile international operations, arrests and drug seizures. However, further results are needed to produce a convincing track record on the more complex types of organised crimes, where local vested interests are at stake, including in money laundering, trafficking in human beings and tobacco smuggling, as well as in the confiscation of proceeds of crime.

On **fundamental rights**, Montenegro further aligned its legislation with EU standards. The capacity of the Ombudsman office and the National Preventive Mechanism has improved, but more efforts are still needed in strengthening the institutional framework and effective protection of human rights. Montenegro needs to ensure that adequate institutional mechanisms are in place to protect vulnerable groups from discrimination. Implementation of the legislation remains weak and institutional capacity on human rights needs to be increased. The Roma and Egyptians<sup>2</sup> minority remains the most vulnerable and most discriminated community. Gender-based violence and violence against children remain issues of serious concern.

Montenegro has achieved some level of preparation on **freedom of expression**, but no progress was made in the reporting period. There have been very limited developments regarding investigations into cases of violence against journalists. Recent political interference in the national public broadcaster Council and the Agency for Electronic Media

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<sup>2</sup> In line with the terminology of European institutions, the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

are a matter of serious concern. The media scene remains highly polarised and challenges in understanding the role of free media persists. Self-regulatory mechanisms remain weak.

As regards the **economic criteria**, Montenegro has made some progress and is moderately prepared in developing a functioning market economy. The economy continued expanding at a robust pace, improving labour market outcomes even though the unemployment rate remained high. Despite positive export dynamics, the current account deficit, fuelled by strong domestic demand, remained very large and was only partially financed by net inflows of foreign direct investment. Financial sector solvency and liquidity ratios improved, but access to finance for small companies remains hampered by tight lending conditions. Fiscal consolidation efforts continued through 2018, but the budget deficit target was missed while public debt reached a new record, partly due to financing needs for a large highway project, financed by a Chinese loan. Private sector development remained constrained by weaknesses in the business environment, the judiciary, and a high prevalence of informality, reflecting poor implementation capacity in key state institutions responsible to enforce the rule of law and market competition.

Montenegro has made some progress and is moderately prepared in its capacity to cope with competitive pressures and market forces within the Union. The development of infrastructure in a number of areas is gradually setting the preconditions for improved economic competitiveness. However, further efforts are needed to enhance human capital development and to reduce the mismatch between education outcomes and labour market needs. Local companies need to grow and step up efforts to increase international competitiveness.

With regard to **good neighbourly relations and regional cooperation**, Montenegro remained constructively committed to bilateral relations with other enlargement countries and neighbouring EU Member States and an active participant in regional cooperation.

Concerning Montenegro's **ability to assume the obligations of membership**, important work on alignment and preparation for the implementation of the *acquis* has taken place in most areas. The country has reached a good level of preparation in areas such as company law, intellectual property law, energy, and foreign, security and defence policy. It is moderately prepared in many chapters, such as free movement of goods, competition policy, agriculture and rural development, food safety, veterinary and phytosanitary policy, as well as enterprise and industrial policy. Montenegro is at some level of preparation in the areas such as environment and climate change, and social policy and employment. Good progress has been made in the areas of right of establishment and freedom to provide services, intellectual property law, agriculture and rural development, and food safety, veterinary and phytosanitary policy. Looking ahead, Montenegro should focus in particular on competition policy, environment and climate change, as well as public procurement. Strengthening the administrative capacity for ensuring the application of the *acquis* remains an important challenge for Montenegro. Montenegro has continued to align with all EU common foreign and security policy positions and declarations.

In the area of **migration**, Montenegro was hit by a sharp surge in irregular migration, due to the partial shift of regional migration flux towards the so-called "coastal route" along Albania, Montenegro and Bosnia and Herzegovina. Montenegrin authorities apprehended 4 753 irregular migrants (a 460% increase compared with 2017), which put the country's reception and administrative capacities under strong pressure. The legal framework was further strengthened with the entry into force of an important legal package on migration and asylum, while some measures were taken to increase the reception and operational capacities. Important border cooperation agreements with neighbouring countries were signed and the European Border and Coast Guard Status Agreement with the EU was initialled. In the next

reporting period, Montenegro should further strengthen the capacity to deal with mixed migration flows and the integration of refugees; continue to increase human and material resources devoted to border management and migrants' registration system.

## **2 FUNDAMENTALS FIRST: POLITICAL CRITERIA AND RULE OF LAW CHAPTERS**

### **2.1 Functioning of democratic institutions and public administration reform**

#### *2.1.1 Democracy*

The political scene remains polarised and the opposition has further fragmented. The reporting period was marked by a continued parliamentary boycott by two opposition parties and by a partial and selective return to the parliament by the rest of opposition. Allegations of corruption and illegal political party financing (the 'envelope' affair) in early 2019 triggered mobilisation of citizens through regular peaceful street protests, attempts at extra-parliamentary political dialogue and the opposition's demands for the formation of a technical government.

#### **Elections**

The level of trust in the electoral framework and conduct of elections remains low. Important priority recommendations from the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Cooperation in Europe (OSCE) remain unaddressed. The electoral legal framework needs to be reviewed in a comprehensive and inclusive manner to regulate all key aspects of the process. In October 2018, Parliament established a temporary committee on further reform of electoral and other legislation. The committee, which is boycotted by the opposition, has yet to deliver *inter alia* on a comprehensive electoral reform well in advance of the next parliamentary elections. The 'envelope' affair requires a credible, independent and effective institutional response.

On the April 2018 presidential elections, the OSCE/ODIHR Election Observation Mission concluded that fundamental freedoms were respected, while noting that the candidate nominated by the ruling party held an institutional advantage. It recommended a comprehensive and inclusive reform of the electoral legislation, and stressed the need to investigate all allegations of electoral violations and to take necessary measures to discourage vote buying and prevent pressure on citizens. The mission report reiterated the need to increase the transparency of the State Electoral Commission (SEC)'s work, professionalism and impartiality. It also stressed the need to strengthen the independence of the public broadcaster and the media regulator. The public prosecution service formed 1,100 cases related to these elections, most on the alleged falsification of identification documents and/or falsification of signatures; all are still in the phase of preliminary investigation.

Local elections continued to take place on a rolling basis, making their international observation difficult, and leaving ample opportunities for claims of irregularities that cannot be independently evaluated. Elections took place in 13 municipalities and one urban municipality in 2018, and were conducted in a generally peaceful and calm atmosphere. The reported irregularities were due to poor organisation and insufficient procedural knowledge of the electoral administration. In March 2019, local elections took place in the newly established municipality of Tuzi. No major irregularities were reported.

In May 2019, the first-instance proceedings related to the 2016 election-day coup attempt ended before the High Court in Podgorica. The court found all 13 defendants, including two opposition MPs, two Russian citizens and eight Serbian citizens, guilty and sentenced them for establishing a criminal organisation with the purpose of committing terrorist attacks and

other crimes against the constitutional order and security.

In October 2018, Parliament established a temporary committee on further reform of electoral and other legislation, with the support of the votes by the ruling coalition and several opposition parties. This cross-party parliamentary body's tasks include delivering comprehensive electoral reform, addressing the recommendations of the OSCE/ODIHR 2016 and 2018 election observation missions, and getting agreement on holding local elections on the same day nationwide. The committee invited representatives of civil society organisations (CSOs) and academia to participate in its work. Since December 2018, the committee lacks quorum due to opposition boycott; in the meantime, work continued without opposition representatives and with uneven participation of CSOs at a technical level only in two of the seven working groups. Clear planning, increased transparency and genuine inclusiveness in the work of the committee will be crucial for it to deliver on its ambitious agenda and enhance public trust in the electoral process.

In March 2019, Parliament appointed the new chair of the SEC after the mandate of the previous one expired in October 2018.

Involvement of women in politics remains low, including in the electoral administration. Electoral lists complied with the minimum requirements in terms of gender equality.

There were no new developments in the political and judicial follow-up of the alleged misuse of public funds for party political purposes that took place in 2012 (the 'audio recordings affair'). In January 2019, a video recording was made public of a high-level party official receiving an envelope with money in the run-up to the 2016 parliamentary elections (the 'envelope affair'). A swift, credible, independent, and effective institutional response to this affair will be key for restoring public trust in the electoral process and the state institutions.

## Parliament

Limited progress was made in 2018 on re-establishing the political dialogue in Parliament with the partial and temporary return of a majority of opposition members of the parliament (MPs) and the establishment of a temporary parliamentary committee on further reform of electoral and other legislation. Active and constructive participation by all parties is required to enhance parliamentary accountability, the oversight of the executive and democratic scrutiny, and achieve better quality legislation.

By the second half of 2018, the majority of opposition MPs, with the exception of two political parties and their nine MPs, had returned to parliamentary sittings and resumed their participation in the parliament's committees, after boycotting their work for almost 2 years. However, following the arrest of an opposition MP in December 2018 and the subsequent 'envelope affair', the opposition has gradually returned to a selective boycott of Parliament.

As regards the **legislative role** of Parliament, the opposition boycott has further weakened the quality of the debate, with parliamentary committees providing mostly unanimous support to draft legislation proposed by the executive. Although Parliament has increased its administrative capacity by recruiting additional staff, its capacity to scrutinise proposed legislation for compliance with EU *acquis* remains low. In 2018, 27 legislative acts out of 198 (13.6 % of the total), were adopted via extraordinary procedures, compared to 22 % in 2017.

The boycott also had an impact on decisions on appointments requiring qualified majority, such as the appointment of non-judicial members of the Judicial Council. In addition, Parliament dismissed a civil society member of the Council of the Anti-Corruption Agency, while the related legal proceedings were still ongoing. In this case, and two similar cases concerning Parliament's decision to dismiss two members of the Council of the national



broadcaster RTCG (*Radio Televizija Crne Gore*), a first instance court established that they had all been unlawfully dismissed. These cases illustrate the importance of a functioning checks and balances system regarding nominations and appointments by the Parliament.

Parliament maintained a high level of transparency at administrative level. However, inclusiveness and public participation were deficient in practice, including for legislation affecting citizens' rights, such as the draft amendments to the Laws on expropriation, on state symbols and statehood day, and on public peace and order. The practice of MPs submitting draft legislation prepared by the government, thereby circumventing mandatory public consultation, needs to be avoided. Significant improvements are required to Parliament's communication and cooperation with citizens, and particular focus is needed on establishing a procedure for addressing citizens' complaints and petitions.

**Parliamentary oversight** of the executive has also been negatively affected by the opposition boycott and needs to be further improved. In 2018, only four control hearings were held, while the number of consultative hearings decreased significantly (30 in 2018, compared to 43 in 2017). Parliament needs to step up efforts to develop a uniform and effective system to monitor the implementation of conclusions and recommendations adopted at oversight hearings. The State Audit Institution's findings continue to be addressed in a limited manner, and there is still no discussion or reporting on the implementation of major policies and legislation.

No complaints from citizens, media or interested parties alleging breaches of the **code of ethics** have been submitted to the Human Rights Committee since October 2016. No additional training on conflict of interests and good conduct took place in 2018. There were also no cases of MPs' immunities being waived by Parliament. However, proceedings were initiated against two MPs of the largest opposition alliance in late 2018, without prior lifting of their immunity, and compliance detention orders were issued against both of them. One of the MPs was detained, while the other avoided arrest by remaining in the Parliament building. The detention orders were temporary suspended by the Constitutional Court pending its final decision on the constitutionality of the related legal provision. One opposition MP from the largest alliance served almost 3 months in prison following the High Court's final decision confirming his prison sentence for an attack on a police officer during the October 2015 opposition protest. Three criminal proceedings involving opposition MPs from the same alliance are currently under way.

The political scene has further fragmented. Additional rifts within some opposition parties and alliances led to the establishment of two new MP clubs and an increase in the number of independent MPs. There are 18 parties represented in Parliament, of which three are parties representing ethnic minorities, and there are three independent MPs.

Of 81 MPs, only 19 (23.5%) are women. Women are also underrepresented in high-ranking positions in Parliament, heading only three (out of 14) standing parliamentary committees. The Women's Political Network, composed of women MPs from 16 political parties, has shown that cross-party political consensus on important issues is possible and that electoral legislation changes and economic empowerment measures can make the difference on women's participation.

Shortcomings persist in the legal framework regulating **political parties** and their funding, including those identified by OSCE/ODIHR, such as loopholes and legal uncertainties regarding the use of loans and party resources to finance the election campaign, insufficient women's participation and a lack of transparency in the financing of political parties. The 'envelope affair' highlighted the need for these shortcomings to be urgently addressed, which

would also enhance public trust in the electoral system. In February 2019, Parliament held an extraordinary session on the ‘envelope affair’, but failed to adopt any conclusions.

There are no women among the political party leaders and very few in the parties’ leadership.

The level of budgetary political party financing is still considerably above the regional average. The task of monitoring political party financing lies with the Anti-Corruption Agency and the State Audit Institution. The results of their monitoring remain limited.

## **Governance**

The legal and procedural framework for strategic planning capacity by central government bodies was significantly strengthened; the new Decree and methodology in this area now need to be consistently implemented by all ministries and state bodies. The transparency of the accession process and stakeholders’ participation remains to be improved. Local self-government legislative framework is in place and needs to be implemented through capacity strengthening, professionalisation and harmonisation of functions at local level. A new municipality of Tuzi was established in September 2018. A new Law on the financing of local self-government was adopted with the aim of consolidating local public finances.

Montenegro remains focused on its EU accession process as the key foreign policy goal. In May 2018, the Ministry of European Affairs was dissolved and its work was taken over by the Ministry of Foreign Affairs, the General Secretariat of the Government, and a new European Integration Office in the Prime Minister’s cabinet, headed by a newly appointed Chief Negotiator, following the resignation of his predecessor. As a result, the number of ministers decreased to 18. There are four female ministers.

In addition to streamlining the composition of the working groups for all negotiating chapters, in October 2018 the government revised the structure of the Commission for European Integration. This Commission monitors the implementation of the SAA and the 2018-2020 national EU accession programme.

**Central government bodies’** strategic planning capacities were strengthened by the adoption of a new Decree on the procedure and conduct of drafting, alignment and implementation of strategic documents and accompanying methodology for policy development and implementation. In line with the decree, the General Secretariat provides guidance on all draft strategic documents and provides a written opinion on compliance on each one, which then goes to the government for adoption. The General Secretariat’s competences in the coordination, alignment and monitoring of policy implementation were also enhanced, and procedures introduced for policy alignment with accession process obligations and EU sector policies. In February 2018, a network of strategic planning focal points was established across the public administration. The National Education Council accredited the programme for professional education of civil servants and state employees in March 2018, while in January 2019 the Human Resources Management Authority finalised the first cycle of certified training for strategic planning. However, coordination with stakeholders for policy development needs to be enhanced.

On transparency, the new Open Government Partnership operational team was formed in July 2018 to draft an action plan to implement the 2018-2020 Open Government Partnership Initiative, which was adopted by the government in November 2018 with the aim of enhancing citizen participation and access to information. The government continues to share information on the EU accession process with the public.

A decree on public consultations was adopted in July 2018. It extended the scope of public consultations beyond draft laws, so that they also cover national strategies. The decree also

clarified the conditions for participation in public consultations and defined exceptions from the obligation to hold them. An online participation platform was created to facilitate public consultations. However, a number of laws affecting citizens' rights were adopted without prior public consultations due to wide interpretation of statutory exceptions from the obligation to hold public consultations. This was also contrary to the Law on state administration. In general, the legislative and policy making process continues to suffer from insufficient transparency and a lack of genuine inclusion of relevant stakeholders.

On **local self-government**, the Law on spatial planning was amended in September 2018 to extend the deadline for issuing municipal spatial plans to the end of 2018. The Law was challenged by opposition MPs before the Constitutional Court, whose decision is still pending.

The adoption and implementation of secondary legislation stemming from the Law on civil servants and state employees and Law on local self-government is ongoing at central government level and in the municipalities, under the supervision of the Ministry of Public Administration. Both laws include provisions on enhanced merit-based recruitment; the Law on civil servants and state employees foresees the delegation of decision-making on recruitment to the relevant level in most cases, apart from those that report directly to the minister. The new Law on the financing of local-self government was adopted in December 2018. The new code of ethics for civil servants and state employees was adopted in July 2018, in line with Law on civil servants and state employees. Individual codes of ethics were adopted by all municipalities, in line with the law.

Women's political participation remains low also at the local level. Of the 24 municipalities, only one has a female major and women make up only 26% of councillors in municipalities.

### **Civil society**

The legal, institutional and financial environment under which civil society organisations operate improved overall. However, the genuine inclusion of civil society organisations in the policy-making process is yet to be ensured in practice. Controversial dismissals of prominent non-governmental organisations' (NGO) representatives from key institutions and bodies, and the growing trend of public institutions declaring information as classified are matters of serious concern. Substantial efforts are needed to ensure meaningful consultations with civil society actors as part of an inclusive policy dialogue, both at central and sectoral levels.

Civil society is a key element of any democratic system and its checks and balances. Civil society organisations' active participation has to be recognised and fostered as an asset by the state institutions.

The legal framework regulating the work of civil society organisations was strengthened with the adoption of five pieces of secondary legislation aimed at implementing the Law on NGOs. However, the legal framework for volunteering remains restrictive and not conducive to voluntary work.

The dialogue on cooperation between public institutions and civil society has significantly improved since the Council for the Development of NGOs has resumed its work in September 2018 with a new organisational structure. Chaired by the Minister of Public Administration, the Council's role is to improve cooperation between CSOs and the national authorities. Its 12 members (six state officials and six CSO representatives) are appointed for 3 years. Three meetings of the Council took place in 2018.

A new NGO strategy and action plan were adopted in January 2018. The implementation of the strategy is monitored by the National Office for cooperation with NGOs, which is a technical body of five staff members under the Ministry of Public Administration.

There is general acknowledgement that civil society has an important role to play in the accession process. CSOs participate in various working groups, including on the accession negotiation chapters. However, their inclusion is deficient and uneven in practice, varying from one working group to another. Often, CSOs are not given sufficient information or notice to be able to contribute meaningfully to the process, or their contributions are ignored. Consultation practices require better planning, transparency and openness to CSOs' suggestions to make them genuinely inclusive. Cooperation between civil society and local government is yet to be developed.

The growing trend of public institutions declaring information classified needs to be reversed as a matter of priority as it prevents effective oversight by civil society. Controversial dismissals of prominent NGO representatives from key state institutions, and from regulatory and watchdog bodies while related legal proceedings were under way, are a matter of serious concern. Likewise, media campaigns aimed at discrediting NGO representatives are not conducive to creating a trustful and enabling environment for civil society.

The rules for public funding of CSOs are in place, with a 0.4% minimum percentage of the state budget to be allocated to civil society under the Law on NGOs. Transparency and standardisation of state funding mechanisms were improved with the adoption of related secondary legislation, but were hindered by lengthy delays. Under the Law on NGOs, overall strategic planning is ensured at central level by the Ministry of Public Administration, while the management of funds is under the responsibility of sectoral ministries. Some 30 calls for proposals were launched by 11 ministries in 2018, based on clearer procedures and improved evaluation rules. More than four million euro were allocated from the state budget to various civil society projects as a result of these calls, a 17.5% increase since 2017. This included the state's co-financing of 48 EU-funded projects for a total amount of EUR 852 000. This co-financing is now mandatory and regulated by a decree.

Some steps have been taken to improve the transparency of the CSO funding process, notably with the set-up of an online database on all state funding beneficiaries and the forthcoming adoption of an annual government report on state funding of CSOs.

Further efforts are needed to enhance the monitoring and evaluation of such projects, and to alleviate CSO concerns that funds are not available for watchdog activities. Cooperation and dialogue with civil society with regard to sector strategies should be improved if the new model of public funding to CSOs is to reach its full potential.

### **2.1.2. Public administration reform**

Montenegro is **moderately prepared** on the reform of its public administration. **Some progress** was made overall, while there was good progress on the medium-term policy-planning framework, merit-based recruitment and rationalising the organisation of the state administration. However, strong political will is still needed to effectively address de-politicisation of the public service, optimisation of the state administration, and effective implementation of managerial accountability, including the delegation of decision-making. Some of the Commission's recommendations from 2018 remain valid. In the coming year, Montenegro should in particular:

→ effectively implement the plan to optimise the public administration;

- implement the Law on civil servants and state employees for all new recruitments in order to ensure the professionalisation and de-politicisation of the public service;
- improve citizens' access to public information by further reducing administrative silence and reversing the trend of declaring public information as classified.

### Strategic framework for public administration reform

Montenegro is implementing two umbrella strategies, the **2016-2020 public administration reform (PAR) strategy** and the **2016-2020 public financial management reform programme**, albeit with some delays. The government ensures regular monitoring and reporting on implementation, but an integrated monitoring and reporting framework is yet to be established. Civil society actively participates in monitoring government reform efforts. **Political support** to the reforms is ensured by the PAR Council, chaired by a deputy Prime Minister. The Ministry of Finance still needs to become fully involved in the overall reform coordination, notably due to the increased need to link policy and fiscal planning and to focus on managerial accountability (*see Chapter 32*). With regard to the **financial sustainability** of the public administration reform, the 2018-2020 PAR action plan is fully costed and budgeted. The reforms are still dependent on external donor funding.

### Policy development and coordination

The legal framework and institutions are in place to ensure a coherent **policy-making system**, including for European integration. Montenegro's medium-term policy planning and reporting system was enhanced in 2018, following the adoption of the decree on drafting, alignment and monitoring of strategic documents, accompanied by methodological guidance. The General Secretariat of the Government has started to take an active role in monitoring implementation of the decree. It ensures quality control by issuing written opinions on the proposals and draft strategies. However, the medium-term fiscal plan is yet to be linked to policy planning. In 2018, the General Secretariat also became responsible for procedural guidance to line ministries to improve preparation of the government work programme and ministry work programmes, and to monitor implementation.

**Inclusive and evidence-based policy and legislative development** remain only partially ensured. Administrative data collection and its systematic use for policy and law-making needs to improve across the administration. Although regulatory impact assessments are now more systematically produced, and more training has been provided to improve the analytical capacities, the quality of impact assessments still need to be improved, including for budgetary impact assessments. Gender mainstreaming and gender analysis in the policy-making process in line with the Gender Equality Act is yet to be ensured. Inter-ministerial coordination remains generally weak, apart from areas where there are inter-ministerial councils such as the PAR Council. A decree on **public consultations** was adopted in July 2018. It extends the scope of public consultations to state strategies beside draft laws, clarifies the conditions for participation, and clarifies the exceptions to the obligation to conduct public consultations, for example in security-related matters. There is a general acknowledgement that civil society has an important role to play in the accession process, but consultation practices require better planning, transparency and openness to civil society organisations' (CSO) suggestions to make them genuinely inclusive. CSOs should also receive regular feedback on how their input has been taken on board. Legislative proposals on which the European Commission is consulted are now accompanied by summaries of impact assessments and results of public consultation.

**Public scrutiny of government work** is expected to further improve as the decree on drafting, alignment and monitoring of strategic documents requires line institutions to prepare annual reports on all strategic documents.

#### Public financial management

The Ministry of Finance, which leads the **public financial management** (PFM) reform, further amended the PFM reform programme and its action plan in 2018. A framework to implement programme budgeting is now in place, but implementation remains behind schedule. The 2018 budget did not achieve targets on presenting clear descriptions of the programmes, objectives and performance indicators. Gender budgeting is yet to be introduced. The law on public sector accounting and its secondary legislation still need to be adopted. The decision on preparation of the capital budget was amended in June 2018. The future PFM action plan should address the financial management information system and human resource capacity needs in the Ministry of Finance, in the tax and customs administrations, and in the State Audit Institution, and should focus especially on capital budgeting, medium-term budgetary framework and annual budgeting. Also, government's investment planning and management capacity needs to be improved, including its capacity to control public assets funded by loans from third countries (*See also chapters 5, 16, 29 and 32*)

The government continues to ensure some level of **budget transparency** by publishing the budget proposal, the final budget and the execution reports. However, line institutions are still not proactively providing budgetary information. A mechanism to ensure a quality check of published data should be put in place. Montenegro does not participate in the Open Budget Index survey, nor has it developed a citizens' budget.

#### Public service and human resources management

The Law on civil servants and state employees and the Law on local self-government entered into force in July 2018. They aim to ensure **merit-based recruitments and dismissals** at both national and local government levels. Most of the secondary legislation was adopted by the end of 2018. Training on new procedures has been provided at central and local level. The Ministry of Public Administration will need to actively monitor that all new recruitment procedures, including for **senior civil service** positions, respect merit in line with the new legal requirements.

**Human resources management** units are in place across the state administration, but require further strengthening. The Ministry of Public Administration should ensure central coordination and quality control of their work. The central personnel register was updated, and a project was launched to link to it the salary system. In July 2018, the government adopted the 2018-2020 public administration optimisation plan to further professionalise and optimise number of employees in the public sector at both central and local levels. On the **remuneration system**, fiscal-related triggers in the salary law led to reductions in salaries for most public servants in early 2018. While public salary scales are transparent, they remain at modest level. The current salary law also leaves room for discretionary 'top-ups'. The Human Resource Management Authority ensures **professional development** by providing training, and has started to implement the first nationally accredited training programme for human resources managers. Accreditation programmes in the field of ethics and **integrity** are being developed.

#### Accountability of the administration

The new Law on state administration was adopted in November 2018. It rationalises the organisation of state administration and addresses the main issues related to **accountability lines between institutions**. The Law provides for a clear organisation and typology of

authorities across the public administration, as well as criteria on establishing and reorganising state administration bodies, state agencies and funds, with a few exceptions. It also provides for clearer definitions of the respective tasks performed by ministers, state secretaries and senior management within ministries. Independence of certain bodies will need to be ensured, especially where this is required under the EU *acquis* and special laws establishing a number of state agencies will now need to be revised. In January 2019, the government adopted an action plan to align special laws with the Law on state administration. The Law was followed by a decree on the organisation and working methods of the state administration, which came into force on 31 December 2018. This led to a very rapid reorganisation of many bodies, and some of these cases were not provided for in other pieces of legislation that were under adoption in the same period. In the future Montenegro should adequately prepare stakeholders for such changes, and consider transition periods for more complex organisational changes.

**Citizens' right to good administration** are provided for by independent institutions, especially by the Ombudsman and the State Audit Institution. Recommendations provided by the Ombudsman to enhance **citizens' right to access public information** were addressed and the number of appeals regarding administrative silence decreased. An open source data portal has been created to enhance proactive disclosure of information. Work is under way to connect it to the European open source data portal. While there has been some improvements, administrative silence remains the major cause of citizens' complaints. The increasing trend of government to declare information classified, particularly on grounds of tax-related data, without justified exemptions or by broad interpretations of the rules, is a matter of serious concern as it prevents effective citizens' oversight of the work of public administration. **Citizens' right to administrative justice** is hampered by the capacity of the Administrative Court to deal with the increasing number of cases and because decisions it takes on access to information are not effectively enforced. The **citizens' right to seek compensation** is not well understood by the general public. While procedures for seeking compensation are in place, there is no specific law on liability. The government does not monitor the number of compensation requests.

#### Service delivery to citizens and businesses

A more user-oriented administration is a government priority, and in a 2019 survey citizen satisfaction on central government administrative services rose to 66% (from 42% in 2017). However, some burdensome procedures continue to exist, such as for vehicle registration, which require multiple contacts with administrative bodies. Secondary legislation for the Law on electronic signature and identification was adopted in July 2018. The number of e-services to facilitate the implementation of the Law on general administrative procedure increased, and Montenegro has joined ISA<sup>2</sup>, a Commission IT programme for inter-operability solutions for public administrations, businesses and citizens. Business satisfaction with digital services in 2019 is 66%, and online submission income tax declarations reached 98% (from 23% in 2017). The implementation of a single information system for electronic data exchange between state bodies is ongoing; two pilot services connect registries of the Ministry of Interior, the tax administration, the Ministry of Justice and the Ministry of Education. **Simplification of administrative procedures** is ongoing. Implementation of the Law on general administrative procedures has started, but some secondary legislation still needs to be harmonised with it.

## 2.2 Rule of law and fundamental rights

### 2.2.1 Chapter 23: Judiciary and fundamental rights

*The EU's founding values include the rule of law and respect for human rights. A properly functioning judicial system and effective fight against corruption are of paramount importance, as is respect for fundamental rights in law and in practice.*

Montenegro remains **moderately prepared** to apply the *acquis* and European standards in this area but has made **some progress** overall. Last year's recommendations have been partially met through further strengthening of the professionalism of the judiciary and an increased use of financial investigations. However, challenges remain, in particular with regard to the efficiency and accountability of the judiciary, and financial investigations are still not launched systematically in all corruption cases. Corruption is prevalent in many areas and remains an issue of concern. Challenges to the independence, credibility and priority-setting of the Anti-Corruption Agency are yet to be convincingly addressed. On fundamental rights, some progress can be noted, but further efforts are needed to ensure their effective protection and application in practice. Concerns persist on freedom of expression and the overall climate of media freedom, with particular regard to the investigations into attacks against journalists and political pressure on the public broadcaster RTCG.

Montenegro is implementing a detailed action plan which was adopted prior to the opening of the accession negotiations on this chapter in December 2013.

#### Functioning of the judiciary

Montenegro's judicial system is **moderately prepared**, and Montenegro made **some progress** in further strengthening the professionalism of the judiciary. Last year's recommendations have been partially met through an increased capacity of the Judicial and Prosecutorial Councils to implement the systems for recruitment, professional assessment, promotion and disciplinary accountability. However, the results of the reforms, in particular the track record on enforcement of codes of ethics and disciplinary accountability remains limited. Implementation of the 2016 ICT strategy continued. Human resources management has not improved, and concrete rationalisation measures remain postponed until after 2019.

In the coming year, Montenegro should in particular:

- strengthen the accountability of the judiciary by developing a track record on implementation of codes of ethics and on the disciplinary responsibility of judges and prosecutors;
- ensure the timely implementation of the 2016 ICT strategy for the judiciary;
- improve the overall human, financial and infrastructure management of the judiciary.

#### Strategic documents

Implementation and monitoring of the 2014-2018 judicial reform strategy and action plan for 2017-2018 has continued. Preparations for the adoption of a new judicial reform strategy and an accompanying action plan are ongoing. This process should allow for genuine and constructive participation of all relevant stakeholders, including civil society organisations.

#### Management bodies

The Judicial and the Prosecutorial Councils are the key bodies in charge of managing the judicial system and the careers of judges and prosecutors. Their composition and appointment procedures are broadly in line with European standards. In June 2018, the Law on the Judicial Council was amended in line with the Venice Commission's opinion, providing for a



temporary anti-deadlock mechanism to ensure the continuous functioning of the Judicial Council in light of the lack of the parliamentary qualified majority required to elect its new non-judicial members.

The 2019 budget of the Judicial Council continued to follow a slight upward trend with EUR 1.37 million allocated, compared to EUR 1.35 million in 2018 and EUR 865,000 in 2017. The 2019 budget of the Prosecutorial Council is EUR 561,000 (2018: EUR 541,000). Training of staff contributed to improvement of the operational capacity of the secretariats of the two Councils. The Councils' operational capacity is in principle adequate to implement the systems for recruitment, professional assessment, promotion and disciplinary accountability. Further strengthening of their administrative capacities is still needed. The two Councils are not yet performing their functions of budgetary and financial management, neither at central nor at court level. The transparency of the two Councils' work needs to improve tangibly, especially by publishing fully reasoned decisions on promotions and appointments, and on disciplinary proceedings. Members of both Councils need to improve their professional capacities, dedicate more time and show full commitment to performing their functions.

#### Independence and impartiality

Constitutional and legal guarantees ensuring judicial independence are in place, but the judiciary is still perceived as vulnerable to political interference. A firmer political commitment is needed to ensure the full independence of Montenegro's justice system. In March 2018, the government adopted an analysis of the legislative framework and its impact on the independence of the judiciary, with a number of recommendations that should be addressed in the new judicial reform strategy.

The Law on courts guarantees the principle of random allocation of cases. In practice, random allocation of cases is implemented automatically through PRIS, the judicial information system, although for very small courts there are certain limits in this regard. PRIS has not been introduced in misdemeanour courts. In the absence of clear criteria, the practice of reallocating large numbers of cases between courts to reduce backlogs puts at risk the principle of random allocation of cases.

One presidential pardon was granted in 2018 (there was one in 2017 and 6 in 2016).

#### Accountability

Track records on the enforcement of the **codes of ethics** and disciplinary accountability for judges and prosecutors remain very limited. In 2018, one new **disciplinary proceeding** was launched against a judge (2017: 1), while 4 new disciplinary proceedings were launched against heads of prosecution (2017: 1). The Disciplinary Commission of the Prosecutorial Council established disciplinary liability in 3 cases. In the same period, all 15 cases reported against judges alleging violation of the code of ethics were closed, and a violation was established in one case (2017: 18, no violations established). Four cases were initiated against prosecutors on suspicion of violating the code of ethics, with one case still pending and no violation established in three cases (2017: 3, no violations established). A state prosecutor in the High Prosecutor's Office in Podgorica was indicted for loan sharking, which resulted in his temporary suspension until the end of court proceedings.

Mechanisms to detect breaches of integrity rules need to become more effective, and all cases that give grounds for disciplinary liability need to be properly followed up. Both disciplinary Commissions monitoring implementation of the Codes of Ethics have an inconsistent approach to handling cases, and a legal remedy against their decisions remains to be provided for by the law. Relevant decisions by the two Councils are insufficiently motivated and case-law remains to be developed. Additional and sustained efforts are needed in promoting ethics

and professional conduct in the judiciary as well as in raising public awareness on existing complaints mechanisms.

A scheduled judicial inspection carried out by the Ministry of Justice found irregularities in the courts' register keeping, while no irregularities were found in the prosecutors' offices. Further improvement and effective enforcement of the judicial inspection system is needed, including more thorough and unannounced inspections.

The disciplinary responsibility and adherence to professional standards of bailiffs remains a cause for concern. The Ministry of Justice developed a plan for control of bailiffs in March 2018. Some 62 complaints were received on the work of bailiffs and 25 *ex officio* controls were conducted by the Ministry, establishing irregularities in the work of 8 bailiffs. Out of 2 disciplinary proceedings initiated against bailiffs in 2018, one resulted in a fine. Courts do not regularly report data on challenges to the legality of bailiffs' decisions to the Ministry. 8 bailiffs were banned from performing their activity due to not fulfilling the eligibility criteria revised in 2017. Additional steps are needed with regard to promotion and adoption of professional and ethical standards among bailiffs, including appropriate training and effective monitoring of their work.

#### Professionalism and competence

Montenegro continued organising single nationwide competitions for judges and prosecutors. Initial training for the first group of judges and prosecutors recruited under the nationwide system was completed in the reporting period. This was followed by the appointments of 2 judges and 4 prosecutors to first instance courts and prosecutors' offices. 3 judges and one prosecutor were elected to a second instance court and prosecutors' office as a result of promotion procedures. Despite the efforts of the Judicial and Prosecutorial Councils to organise transparent and merit-based selections, challenges remain regarding the planning of recruitment and the transparency of selection procedures.

Both Councils now conduct regular assessment of judges and prosecutors under the new system of regular professional assessment. In 2018, 41 judges and 32 prosecutors have been evaluated. However, assessment needs to be more thorough, in line with the assessment criteria revised in 2017.

#### Quality of justice

The 2019-22 strategy of the Judicial Training Centre was adopted in October 2018, but measures for its implementation remain to be incorporated in the action plan for the 2019-22 judicial reform strategy. In 2019, the budget of the Judicial Training Centre slightly decreased to EUR 619 000, compared to EUR 624 240 in 2018. Meanwhile, 14 of the 20 envisaged positions are filled. The autonomous and self-sustainable functioning of the Centre is yet to be guaranteed, and its administrative and expert capacity further improved. Measures are ongoing to improve its capacity to identify training needs and promote training, but further efforts are needed. The Centre should become more proactive in this regard, and should strengthen cooperation with the Judicial and Prosecutorial Councils and other relevant stakeholders.

Activities continued to harmonise jurisprudence, including with the case-law of the European Court of Human Rights, through training of judges, prosecutors and lawyers. In addition, the capacity of the Judicial Training Centre to provide human rights training was strengthened.

Instructions for collecting statistical data in compliance with the European Commission for the Efficiency of Justice (CEPEJ) guidelines are yet to be fully implemented, and no progress was made in this regard. Data on the total length of proceedings is still not available.

Statistical information on the performance of the judicial system is not systematically analysed, nor used for management and policy-making purposes. Montenegro requested assistance from CEPEJ to improve the quality of its judicial statistics.

PRIS, the judicial information system, is used by all courts for tracking cases, for some aspects of case management and for communication with parties. However, the system still has security gaps and does not operate reliably outside Podgorica, while the information system of the prosecution remains insufficiently advanced. PRIS also allows for collection of comprehensive statistics, but serious concerns remain about reliability and availability of statistical data. Implementation of the 2016-20 ICT strategy for the judiciary is ongoing, and envisages the replacement of PRIS with a new IT system. Procurement of a new IT system for courts was launched in December 2018. However, implementation of the corresponding action plan has been limited and continues to face delays, and stable and sufficient funding for planned reforms beyond 2019 is still lacking. With a view to improve coordination and address delays in implementation, a separate Directorate-General for ICT and Data Security was established within the Ministry of Justice. Alternative solutions are needed until the new IT system and all its features are operational. These transitional measures should provide for effective allocation of human resources and more realistic workload standards for judges, based on the results and recommendations of the case-weighting study completed in 2015.

The 2019 budget for the judiciary increased to EUR 39.1 million, compared to EUR 37.8 million in 2018. Funds are not efficiently allocated and the largest part of the budget is spent on salaries, while the remainder is insufficient to cover investment needs and improve overall poor judicial infrastructure. Montenegro has 51 judges and 17 prosecutors per 100,000 inhabitants, far above the European average of 21 judges and 11 prosecutors.

A positive trend can be observed in **alternative dispute resolution**, for which a programme and accompanying action plan for 2019-21 were adopted at the end of 2018. 629 cases were referred for mediation in 2018 (2017: 437), and 107 cases were resolved through mediation (2017: 161). During the same period, 3 450 cases (2017: 2,055) were submitted to the Agency for Peaceful Settlement of Labour Disputes, and 3 041 cases were resolved (2017: 1 775). However, this method is still not systematically used and its overall impact remains low. The Ministry and the Centre for Mediation need to adopt a more proactive approach to further promote the use of mediation among judges and parties to the disputes.

### Efficiency

In 2018, the case backlog decreased by 4.5% to 38,970 cases pending, while the number of cases pending for more than 3 years fell by 4% to 3,081. The disposition time, i.e. the average time from filing to decision, was 178 days for first-instance proceedings in civil cases and 131 days for commercial cases (2017: 295 days for civil cases and 97 days for commercial cases). Montenegro needs to step up efforts to improve the efficiency of the judiciary, enhance backlog monitoring and reduce the number of cases pending.

Following introduction of the bailiff system, the total number of enforcement cases before the courts has continued steadily to decrease, and the backlog has been significantly reduced. In 2018, 1 643 enforcement cases were filed before the courts (2017: 1,688), while the number of pending enforcement cases fell to 6 004 (end of 2017: 10 521). The number of appeals lodged against the decisions issued by bailiffs decreased to 6 997 (2017: 8 224), and the number of pending appeals decreased to 468 by the end of 2018 (688 a year earlier). A centralised case management system for bailiffs is operational, providing for central monitoring of the recovery rate, costs and duration of proceedings. However, it is not systematically used, resulting in unreliable data. Enforcement of court decisions remains problematic.

In 2018, the number of cases submitted to the Constitutional Court increased to 2 291 (2017: 1 039) while the court in the same year resolved 1 203 cases (2017: 1 066). 2 492 cases remained pending at the end of the year.

Concrete rationalisation measures included in the 2017-19 mid-term strategy for the rationalisation of the courts network have been postponed until after 2019. Amendments to the Law on courts, which would lay down the minimum number of judges per court in accordance with the Judicial Council Decision of 2017, have not yet been prepared. Reform in this area should draw on data and conclusions of proper need and cost-benefit analyses of the past and planned reforms. Better human resources and judicial infrastructure management need to be ensured.

#### Domestic handling of war crimes cases

Implementation of the war crime prosecution strategy is ongoing. However, no new cases have been opened since 2016, while four cases remained in the preliminary phase of investigation by the Special Prosecutor's Office (SPO). One court case is ongoing against one person, who is charged with crimes against civilian population. In all cases under preliminary investigation, the SPO had to rely on letters rogatory to the UN International Residual Mechanism for International Criminal Tribunals (MICT) and on requests for international legal assistance by the prosecution services of the neighbouring countries. In February 2019, a memorandum of understanding was signed with MICT, allowing MICT to provide direct expert assistance to the SPO on concrete war crimes cases.

All previous cases of compensation have resulted in final and enforceable judgements, while no new claims for compensation were received in 2018. A total of EUR 5 714 656 was awarded to claimants. Montenegro needs to ensure that victims of war crimes have equal access to justice, in line with European and international standards, and that compensation is in line with Montenegro's commitments.

Montenegro needs to further increase its efforts to fight impunity for war crimes by applying a proactive approach to effectively investigate, prosecute, try and punish war crimes in line with international standards, and also to prioritise such cases. These efforts should be accompanied by adequate funding. The judicial decisions reached in the past contain legal mistakes and shortcomings in the application of international humanitarian law. Charges of command responsibility, co-perpetration and aiding and abetting have so far not been brought.

#### **Fight against corruption**

Montenegro has **some level of preparation** in the fight against corruption and **limited progress** has been made, with last year's recommendations partially met. The Special Police Unit has been allocated 10 additional staff, a 50% increase in total. The Anti-Corruption Agency (ACA) has started issuing misdemeanour orders and measures of seizure of material gain, and has also developed a risk assessment methodology and new software for in-depth, result-oriented checks of political party financing. However, the need for a proactive attitude and sustained efforts remain both in prevention and repression of corruption. Challenges related to the independence, credibility and priority-setting of the ACA are yet to be addressed. Despite some progress, financial investigations, seizure and confiscation of assets are areas that are yet to be improved. Independent institutions need to be shielded from any undue influence and encouraged to fully use their powers in order to further develop a track record of effective investigations, followed by successful and enforceable convictions and dissuasive sanctions.

Overall, corruption is prevalent in many areas and remains an issue of concern. There is a need for strong political will to effectively address corruption issues, as well as a robust

criminal justice response to high-level corruption.

In the coming year Montenegro should in particular:

- ensure the independence of the ACA and remedy the shortcomings in its work, as established by domestic courts;
- step up efforts to systematically conduct financial investigations in parallel with criminal investigations, establish track records on seizure and confiscation of criminal assets, and ensure that management and staff of the asset recovery office are recruited on the basis of transparent and objective criteria with a focus on merit and professional skills;
- improve track records on repression and prevention of corruption, including by imposing effective sanctions.

#### Track record

An initial track record of investigation, prosecution and final convictions in corruption cases has been established, but sustained efforts are needed to consolidate results. In 2018, four final and enforceable judgements were issued for high-level corruption, resulting in one conviction reached through a plea bargain agreement. The former President of the State Union of Serbia and Montenegro has not yet started serving his prison sentence even though he was convicted in 2016. In April 2019, Montenegro sent an official request for his extradition to Serbia, where he is currently staying. Trials are ongoing in 24 other cases of high-level corruption against 61 individuals and 3 legal entities. The high number of cases ending with plea bargains further raises concerns about transparency and consistency of the courts' sanctioning policy.

In 2018, indictments for corruption-related offences were lodged in 12 cases of high-level corruption (2017: 10) against 31 individuals, including mayors and public officials, and 2 legal entities. New investigations were launched in six cases (2017: 16) of high-level corruption.

The track record on **confiscation** of assets still needs considerable improvement. Precautionary freezing of assets was requested in only one high-level corruption case involving six individuals and one legal entity. Permanent confiscation was requested in 2 cases concerning 3 individuals, and resulted in the confiscation of immovable property. The Appellate Court reached a final decision on the permanent confiscation of immovable assets of the former President of the State Union of Serbia and Montenegro. New financial investigations were launched in relation to two cases of high-level corruption against 15 individuals.

Montenegro has made some progress in establishing a **track record** on the prevention of corruption. The Anti-Corruption Agency has started issuing misdemeanour orders directly (21 orders, EUR 3,000 in fines) and launched protective measures of seizure of material gain (3), but a solid track record remains to be established. The amount of fines imposed by misdemeanour bodies is increasing. However, the continued practice of issuing sanctions below the statutory minimum is not having a deterrent effect and counteracts the effective enforcement of rules on prevention of corruption. Results remain extremely limited, with no cases related to abuse of public resources for parties and electoral campaigns and illicit lobbying, and only a few initiated cases of inexplicable wealth.

Based on the Agency's 185 opinions and 71 decisions on **incompatibility of functions and conflict of interests** (2017: 127 opinions and 64 decisions), 77 public officials resigned from their office or function (2017: 37) and 5 were dismissed. Despite this increase, further efforts are needed to strengthen the track record and address the shortcomings in the application of

the law, the establishment of facts and the quality of reasoning, as well as with regard to procedural safeguards for individuals affected by the ACA's decisions. These shortcomings were confirmed by the national courts in several sensitive cases, including those concerning members of the Council of the national broadcaster RTCG, and the CSO member of the ACA's Council.

For the period 2017/2018, 95% of public officials and 93% of public servants submitted **income and asset declarations** within the prescribed time limit (2016/2017: 96% public officials and public servants). The ACA verified 854 reports on income and assets, fulfilling its annual plan of 836 verifications. The Agency has consistently followed up and initiated misdemeanour proceedings in cases concerning failure to submit income or asset declarations. The number of public officials who gave optional consent to the Agency for access to their bank account for the purpose of verifying the data submitted in the income and asset declarations decreased in 2018 from 71% to 60% of public officials and from 75% to 69% of civil servants. The number of members of the government who gave such optional consent remains limited to 10.

Of the 30 cases of inexplicable wealth the Agency opened in 2018 (2017: 24, 2016: 49), it has so far closed 28 inquiries. However, it does not appear that these efforts have contributed to the detection and prevention of corruption, since no irregularities were found. The ACA carried out planned control and verification of 78 public officials, 20 of which were high-ranking officials. Misdemeanour proceedings are ongoing in nine of the latter cases. As in previous years, no irregularities that would be forwarded to the prosecution were found. The Agency is encouraged to conduct more in-depth checks of officials on random samples and of high-ranking public officials, including searching for illicit enrichment, changes and transfers of assets, and identifying origins of assets. No such checks were carried out in relation to recent public allegations concerning high-ranking state officials.

The ACA continued to monitor the overall compliance of relevant entities in meeting the legal obligations on the **funding of political parties and electoral campaigns**. The Agency performed routine control checks of party financing along with oversight of election campaigns. It initiated 19 misdemeanour proceedings for non-compliance with the legal obligations in relation to the 2018 presidential and municipal elections, imposing EUR 11,390 in fines. However, it has not detected any **abuse of public resources for parties and electoral campaigns** purposes. Furthermore, there were no temporary suspensions of the payment of budgetary funds to political entities. The Agency should considerably reinforce its work in this regard and act proactively on public reports of alleged misuse of state resources. The Agency's handling of the 'envelope affair' and its refusal to make public the decision against the ruling party, in which it found a violation and imposed a fine, has given rise to allegations of the ACA's selective application of the relevant legal provisions, which is a cause for concern.

The State Audit Institution published positive audit reports on annual financial statements for 2017 of 17 political parties and 7 conditional reports, while regularity audits yielded 10 negative, 9 positive and 5 conditional reports with recommendations for improvement.

In 2018, 6,080 initial requests for **access to information** were made to public bodies. The Agency for Data Protection and Free Access to Information received 3,284 complaints, of which it upheld 33% (2017: 1,086 complaints, 33% upheld). Most cases related to requests that had remained unanswered by the public institutions, and this continues to be a matter of concern. The Administrative Court ruled in 94 cases against decisions by public bodies not to grant access to information. However, court decisions are not effectively enforced. The increasing practice of declaring requested documents classified in order to restrict access to

information is a serious matter of concern (2018: 104, 2017: 50, 2016: 30). Public institutions need to ensure greater transparency and accountability, especially in areas prone to corruption and in sectors dealing with the allocation of large portions of state budget or property.

Results on the protection of **whistle-blowers** remain limited, with a continued decrease in requests for protection of individuals reporting threats to the public interest. One request for whistle-blower protection was submitted to the ACA in 2018 and is pending a decision, along with a case from the previous year (2017: 2 requests, protection granted in 1 case; 2016: 8 requests, protection granted in 3 cases). The ACA received 110 reports on threats to the public interest (2017: 69, 2016: 56) and initiated 13 new proceedings on its own initiative (2017: 27), establishing such a threat in 18 cases. So far, 19 misdemeanour procedures were initiated and 10 cases were sent to the prosecution.

**Integrity plans** are being continuously implemented by the vast majority of public bodies, but their practical impact remains to be assessed.

As regards the implementation of the Law on **lobbying**, 14 lobbying certificates were issued in total (2017: 7), and 6 lobbyists registered with the Agency in 2018 (2017: one). Despite this increase, these low numbers suggest that lobbying activities are being carried out outside the legal framework.

Cases demonstrating the implementation of **codes of ethics** for members of the legislative and executive authorities are scarce, whereas a few such cases were reported by the police and customs administration.

### Institutional framework

#### *Prevention of corruption*

The new rulebook on the internal organisation of the **Anti-Corruption Agency** was adopted in October 2018, providing for increased administrative capacity of the Department for Prevention of Conflict of Interest and Control of Political Party Financing. The number of ACA staff decreased to 54 (2017: 56) out of 60 planned. Following the dismissal of the CSO member of the Agency's Council, one position in the Council remains vacant. In January 2018, the Constitutional Court annulled the Agency's Rulebook on procedures; a new Rulebook was adopted in December 2018. Capacity-building activities continued, but further training is needed, in particular on election campaigns and protection of whistle-blowers. Further improvements were made to the ACA's IT system – including the algorithm for random selection of public officials for verifying incomes and assets of public officials. The Agency established a connection to the Central Population Registry and Securities Commission for the purpose of controlling income and asset declarations. The newly established access to the registry of fines and misdemeanour records enables the Agency to record misdemeanour orders. The Agency also launched a new application, providing for electronic submission of integrity plans and reports of authorities, facilitating their easier processing and analysis. A new risk assessment methodology and software for in-depth, result-oriented control of funding of political parties and electoral campaigns is in use since January 2019. The ACA needs to use these tools to ensure effective exercise of its investigative powers. More in-depth checks to verify the credibility of data are needed, and the development of adequate methodology in this regard would be beneficial.

The ACA continued addressing the limited impact of the Law on lobbying through awareness raising and outreach to public administration, local self-government and Parliament. It also published on its website a form to report illicit lobbying, but no such reports have been submitted yet. A proactive approach is needed in order to detect, follow-up and sanction breaches of the law.

Despite measures taken, including on communication and outreach, the Agency is still not perceived as sufficiently independent and proactive by the general public. Due to personal ties between its management and the political elite, allegations of it being instrumentalised for political purposes persist. To strengthen public confidence, the Agency and its staff must ensure maximum transparency, integrity, impartiality, independence, an unselective approach, and uniform and full application of relevant laws.

Montenegro still needs to demonstrate by concrete and visible results the impact of anti-corruption measures in **particularly vulnerable areas** such as infrastructure projects, healthcare, education, construction and spatial planning, and privatisation of public enterprises. Transparency in these areas needs to be significantly improved. There is still a strong and urgent need to improve and strengthen internal inspection mechanisms within the public administration and to improve their cooperation with law-enforcement authorities. The introduction of full e-procurement is still ongoing and a new Law on public procurement planned for adoption in 2019. E-procurement is expected to help achieve more transparency and reduce opportunities for abuses in public procurement procedures. However, checks on the overall public procurement cycle remain a cause for concern.

#### *Law enforcement*

The number of prosecutors allocated to the Special Prosecutor's Office increased from 10 to 12; their appointment is under way. In addition, two additional prosecutors are temporarily seconded to the SPO. Of the planned 37 positions, 35 have been filled (2017: 35). The SPO is supported by a Special Police Unit (SPU) with 29 positions filled, including 10 positions added in 2018.

The overall institutional and operational capacity of prosecutors, judges and police to fight corruption remains insufficient and needs improvement, particularly through specialised and long-term training. Financial investigations are now being launched in the earlier stages of criminal investigations, but are still not launched systematically in corruption cases. The concept needs further alignment with the Financial Action Task Force (FATF) standards.

Following the trend of previous years, the police and other state institutions continue to submit only a small number of cases to the prosecution service, while hardly any originate from official inspections or auditing bodies. Political influence should not be exerted on law enforcement and judicial officials by members of the executive and the legislative branch with the aim of interfering in their independent functioning.

A decision on the premises of the Special Prosecutor's Office remains pending, but no concrete progress has been made; this needs to be addressed without delay. It is also of utmost importance that the SPO is able to recruit the most suitable experts.

#### Legal framework

Montenegro is a party to all international anti-corruption conventions, including the United Nations Convention Against Corruption. The **legal framework and secondary legislation on anti-corruption are in place**. Passive and active corruption are both punishable under the Criminal Code. Montenegro is encouraged to make illicit enrichment a criminal offence. The Council of Europe Group of States against Corruption (**GRECO**) concluded that out of 11 recommendations on the ethics and integrity of MPs, prosecutors and judges, 6 are considered to be fully implemented, and 2 partially implemented, while 3 recommendations have not yet been implemented.

Shortcomings in the existing **legal framework on political parties' financing**, including those identified by ODIHR, need to be addressed. Conflicting interpretations of the Law on



financing of political entities and electoral campaigns by the ACA and the State Audit Institution cause legal uncertainty among the subjects of control. A consistent application of legislation is needed to ensure uniform requirements for all political entities and state institutions subjected to control during electoral campaigns.

The **Law on free access to information** was amended in April 2017. Its implementation has not contributed to ensuring more transparency and accountability in public service, as the authorities continue declaring requested information as classified, excluding it from the scope of application of this law. This piece of legislation is a cause for concern and needs to be reviewed thoroughly in line with international standards. The legal framework on **whistle-blower protection** will need to be aligned with the new EU *acquis* on this issue.

Obstacles to establishing a more convincing track record in successfully addressing high-level corruption also remain in the legal framework regulating pre-trial and financial investigations. Some excessive formalities will need to be filtered out of the legal framework.

#### Strategic framework

The action plan for Chapter 23 outlines comprehensive reforms to prevent and repress corruption. A complementing ‘operational document’ sets out additional measures to prevent corruption in areas particularly vulnerable to corruption. Tangible results remain to be achieved in these areas, and Montenegro should develop more impact-oriented sector-specific plans for the prevention of corruption.

#### **Fundamental rights**

The capacity of the Ombudsman and the National Preventive Mechanism (NPM) has further increased, as has the overall awareness of international human rights standards, in particular of European Court of Human Rights (ECtHR) case law. Further progress remains to be made in aligning the legislation with EU and international human rights standards, including in the area of prevention of discrimination of persons with disabilities. Implementation of the legislation remains challenging, and institutional capacity on human rights still needs to be strengthened substantially. Montenegro is yet to ensure adequate institutional mechanisms to protect vulnerable groups from discrimination. The Roma and Egyptian minority remains the most vulnerable and most discriminated community. Gender-based violence and violence against children remain issues of serious concern.

To address these shortcomings, Montenegro should in particular:

- further strengthen human rights institutions and the Ministry of Human and Minority Rights, and increase their knowledge of international and European human rights standards;
- strengthen the application and protection of human rights, and ensure effective protection of victims of human rights violations, including by providing for effective investigations into ill-treatment by law enforcement, and cases of deaths and physical attacks on individuals, in accordance with ECtHR case-law;
- ensure effective implementation of fundamental rights policies on gender equality, children and Roma rights, and rights of persons with disabilities, by securing sufficient budget allocation for implementation, improving the capacity of relevant institutions as well as inter-institutional coordination.

As regards **international human rights instruments**, no new ratifications took place. Montenegro is yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), signed in 2006.

Montenegro continued its dialogue and cooperation with international human rights organisations and monitoring bodies, in particular with the United Nations and the Council of Europe. The Universal Periodic Review report for Montenegro (Third Cycle) was adopted by the UN Human Rights Council in June 2018. Out of 169 recommendations Montenegro accepted 7, noted 3 and considered 144 as already implemented or in the process of implementation, while the rest are pending. The UN Committee on the Rights of the Child adopted concluding observations on Montenegro in June 2018. In September 2018, the UN Committee on the Elimination of Racial Discrimination also adopted concluding observations on Montenegro. In October 2018, the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) published its first evaluation report on Montenegro. In February 2019, the European Committee for the *Prevention of Torture and Inhuman or Degrading Treatment* (CPT) published its fourth periodic report on Montenegro.

Montenegro continued to ensure a good level of cooperation with the **European Court of Human Rights** and none of the judgements are subject to the enhanced supervisory procedure. The government continues to conclude friendly settlements in cases concerning the length of proceedings and non-enforcement of domestic decisions. Montenegro is not yet observer to the Fundamental Rights Agency, but has expressed interest to become observer. In 2018, 13 judgements against Montenegro were issued by the ECtHR. Most cases concerned Article 6 ECHR (right to a fair trial), two concerned Article 8 (right to respect for private and family life), two Article 1 Protocol No. 1 (right to property), while one related to Article 13 (effective remedy). Violations were found in 11 of these cases. In 2018, a total of 318 new applications were allocated to a Council of Europe decision-making body, and there were 119 applications pending before the Court by the end of the year. Overall awareness of the institutions and rights protected by the European Convention on Human Rights (ECHR) is increasing. Improvements are still needed regarding the application of ECtHR standards and the quality of reasoning of decisions referring thereto.

As regards *promotion and enforcement of human rights*, Montenegro has a Ministry for Human Rights (MHRM) and an Ombudsman, the latter being accredited with a B-status by the Global Alliance for National Human Rights Institutions (GANHRI). Both received assistance aimed at strengthening their respective capacity. The capacity of the MHRM remains limited and needs further strengthening. The Ombudsman Office's visibility, outreach and productivity have further improved, along with its capacity to handle complaints and the quality of its opinions and reports. Cases initiated by the Ombudsman, including misdemeanours and criminal complaints, require a more proactive approach, along with a more effective follow-up. Four additional staff were recruited in 2018. The number of reported cases continued to grow, which could be an indication of increasing public trust in this institution. Cooperation with CSOs remains positive, especially in the area of anti-discrimination; however, a more systematic and structured outreach approach needs to be adopted. Financial resources provided to MHRM and the Ombudsman's Office are not sufficient to enable them to carry out their tasks efficiently.

As regards **prevention of torture and ill-treatment**, Montenegro has continued to implement the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT). The capacity of the National Preventive Mechanism (NPM) has been strengthened, as evidenced by the results of its work. The NPM should demonstrate a more proactive approach by more regular visits to prisons and other detention facilities, including unannounced visits. Shortcomings and delays in investigating and prosecuting cases of alleged violence by law-enforcement officers, including in the context of protests, as well as mild sanctions for established offences, are signs of the difficulties of eradicating ill-

treatment and establishing a record of deterrent sanctions. Ill treatment by the police needs to be addressed through stricter recruitment, better training and improved oversight; shortcomings persist in relation to internal control and disciplinary procedures of police. The above difficulties apply also to reported cases of alleged ill treatment in prisons, including the use of prolonged restraint and fixation, which needs to be addressed. Sufficient safeguards for persons deprived of their liberty are not in place. In the Dubrova psychiatric hospital, urgent measures are needed to tackle overcrowding. Montenegro needs to demonstrate willingness to effectively prevent and repress excessive use of force by law-enforcement officers, including by ensuring that they are always identifiable by ID numbers. In relation to the 2015 prison violence, the criminal case against 13 prison guards is still pending in first instance.

Concerning the *prison system*, material conditions of detention continue to improve through small-scale refurbishments of facilities, but overall they remain poor. Challenges also remain on the provision of healthcare to inmates. 32 additional staff were recruited to the Spuž prison in 2018; however, their working conditions need further improvement. Despite support provided and additional recruitments, there has been limited progress on rehabilitation and resocialisation. Training, awareness raising and capacity building continued among prison guards and other staff on fundamental rights standards in prisons. Amendments to the Laws on probation and community service sentences, and on enforcement of prison sentences, penalties and security measures were adopted in March 2019. There has been some progress with regard to the alternative sanction system, but implementation is delayed. While numbers of probation staff increased, resources remain insufficient in general and the overall capacity of the probation system needs to be further increased. Further efforts are needed on implementing probation alternatives to home detention.

Implementation of the legal framework on **personal data protection** remains weak. A working group has been formed to align the Law on personal data protection with the General Data Protection Regulation 2016/679 and Directive 2016/680. Capacity-building activities to strengthen the Agency for Personal Data Protection and Free Access to Information have continued, and one more staff member has been employed, but the Agency's capacity needs further strengthening to perform its tasks efficiently. The number of data protection cases brought to court remains limited, while the number of complaints lodged with the Agency has increased. The protection of personal data in relation to the electronic database of voters has been ensured, in line with the OSCE/ODIHR recommendation from October 2016. The country has not signed or ratified the 2018 Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

On **freedom of thought, conscience and religion**, and equal treatment of all religious communities, a new Law on freedom of religious belief is under preparation. Montenegro needs to ensure that this new legislation is prepared in a genuine dialogue with concerned stakeholders, and that it is in line with relevant international standards and conventions, while respecting the principles of transparency and inclusiveness. Tensions between the Serbian and Montenegrin Orthodox Churches continued.

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## Freedom of expression

Montenegro has achieved <b>some level of preparation</b> on freedom of expression. <b>No progress</b> was made in the reporting period and previous recommendations are yet to be addressed. There have been some developments on the investigation into the May 2018 shooting of an investigative journalist, while important old cases of attacks against journalists remain unresolved. Continued political interference in the national public broadcaster (RTCG) and the Agency for Electronic Media (AEM) remains a matter of serious concern. The media
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scene continues to be highly polarised and challenges persist in understanding the role of free media. Self-regulatory mechanisms remain weak. Training of the judiciary on ECtHR case law on freedom of expression needs to continue.

In addressing the shortcomings, Montenegro should in particular:

- significantly step up and prioritise efforts to investigate cases of attacks against journalists;
- ensure the financial and editorial independence of RTCG and AEM, as well as of their governing bodies and of all other media outlets;
- support the establishment of effective self-regulatory mechanisms.

#### Intimidation of journalists

Progress in addressing violence against journalists and media is still very limited, with old cases remaining unsolved. Four attacks were registered by the authorities in 2018; in three of these, convicting judgements were issued against four individuals for endangering the safety of the journalists concerned. In addition, cyber-attacks against media outlets were reported. The most serious attack, qualified as an attempted murder, took place in May 2018 against the investigative journalist Olivera Lakić. The government has issued strong statements in support of investigating cases of violence against journalists. However, while the investigation into the May 2018 attack has shown initial results, the authorities have failed to show intensified efforts to solve old cases, including the 2004 murder of an editor-in-chief. Protection has been offered to two journalists. The first-instance verdict against a crime journalist on charges of creating a criminal organisation and trafficking of narcotics raises concerns as to journalists' ability to perform their duties professionally and without fear of legal repercussions. There are still reports of undue pressure on journalists by law-enforcement officials to disclose their sources.

The ad hoc commission for monitoring violence against media has since September 2016 produced five reports focusing on both recent and old cases, identifying a number of shortcomings including delays in investigations. The commission has been given access to documents with un-redacted names, but difficulties in obtaining timely and complete information from the authorities persist. The commission's recommendations are yet to be fully implemented by state authorities and its 2019 budget is yet to be approved by the government. Further efforts are needed to prosecute the cases effectively and without delay, also in order to avoid the application of the statute of limitations. Authorities are expected to demonstrate zero tolerance for threats or attacks against the media, and should refrain from making statements that may create an environment not conducive to freedom of expression.

#### Legislative environment

Plans to amend the Law on state symbols, prepared in the absence of public consultations, and to introduce fines for not standing when the national anthem is played triggered a discussion on conditions conducive to the effective exercise of freedom of expression. While regulating these issues is a prerogative for the State, it is important that the legal framework does not infringe upon the right to freedom of expression.

Laws on media, the public broadcaster RTCG and on electronic media are scheduled for adoption in 2019. These laws need to address the recommendations set out in the media sector inquiry and be complemented by a comprehensive media strategy. All laws governing or affecting the media sector should be prepared in an inclusive, coherent and coordinated manner, and alignment with the EU *acquis* and international standards ensured. Montenegro needs to ensure that its legislative framework provides an enabling environment for freedom

of expression, based on transparency of media funding and ownership, integrity and pluralism.

Implementation of legislation/Institutions

Self-regulatory bodies continued to reflect the overall polarisation of the media scene in Montenegro and one of them suspended its activities in August 2018. As a result, some media outlets no longer have a complaint mechanism in place. There is still no uniform approach to sanctions, suggesting that ECtHR case-law and other standards are not yet sufficiently known. Efforts need to be stepped up to establish effective self-regulatory mechanisms, with a view to improving professional standards in media reporting and creating a climate where freedom of expression cannot be abused. Effective and even application of the revised code of ethics of journalists is yet to be achieved.

Public service broadcaster

The replacement of the public broadcaster RTCG’s Council members, and subsequently of its management, has fuelled further concerns about undue political interference and pressure on the RTCG. So far, in four of these cases domestic courts found that dismissals were not in accordance with the law. The editorial independence and professional standards of the RTCG need to be restored, and the RTCG Council shielded from undue influence and political pressure, including during the selection of its members. The contract on provision of public services between the government and RTCG was signed in March 2018, according to which the government is required monitor the implementation of the financial commitments. The issue of funding should remain separate from that of service provision, and oversight of programming output should be entrusted to an independent body, in line with European standards. The collective agreement regulating the work of RTCG employees has still not been signed, adding to uncertainty among its employees.

Economic factors

Concerns about transparency and non-discrimination in state advertising persist. The fact that many media outlets are not financially sustainable has a negative impact on the quality of reporting and professionalism. Montenegro should ensure that informal pressure on editorial policy is not exerted through the distribution of advertising funds, including from public companies, as well as through project co-funding from local budgets. The sustainability of media should be addressed in the forthcoming media law.

Professional organisations and working conditions

Journalists are jointly represented in Montenegro’s media trade union. Two associations aimed at fostering and promoting professional journalism across the polarised media scene also exist, but still need to reach their full potential. The economic situation of journalists remains precarious, particularly due to job insecurity and low salaries, putting them at risk of editorial interference and possible self-censorship. There is still no structured dialogue between the government and the media community on the working conditions of journalists.

*(See also Chapter 10 - Information society and media)*

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**Freedom of assembly and association** is guaranteed by the Constitution and the legal framework is in place. In October 2018, the Constitutional Court found that by upholding the ban of the 2015 gay pride march in Nikšić, the Supreme Court had violated the organisers’ freedom of peaceful assembly. A number of large-scale civic protests took place in early

2019; all of them were conducted without major incidents and in an overall peaceful atmosphere.

Issues of **labour and trade union rights** are further covered in *Chapter 19 - Social policy and employment*.

Regarding **property rights**, in October 2018, Parliament enacted amendments to the Law on expropriation, after a shortened legislative procedure and without public consultation. Arbitrary interference in property rights in the application of domestic legislation needs to be prevented and due process ensured in line with the EU and international human rights standards. The process of restitution of properties expropriated in the past remains slow. Montenegro needs to ensure fair restitutions proceedings within a reasonable time.

On **non-discrimination**, the legal framework is largely in line with the EU acquis and European standards, but a comprehensive strategy is missing. Court cases remain rare and a very limited number of cases has been initiated by the relevant inspection services. Discrimination on the basis of political affiliation in the area of employment continues to be the most commonly reported. The work of the Ombudsman's Office in this area has improved, but its capacity needs to be further strengthened on data collection as no uniform database on discrimination-related complaints and cases exists. The legal framework on hate speech is broadly in line with EU standards, but the number of prosecuted cases of hate speech remains low. Institutional follow-up, including by law enforcement and the judiciary, needs to be improved.

On **equality between women and men**, there was little progress in the reporting period. Concerns remain regarding the impact of relevant legislation and the 2017-2021 action plan on gender equality. The process remains largely donor-dependant, and adequate human, technical and financial resources are lacking. The gender mechanism does not effectively perform its coordinating and strategic role, and the Committee on the Elimination of Discrimination against Women (CEDAW) recommendations have not been properly followed up. The number of complaints to the gender referral mechanism remains low, indicating a lack of public awareness and confidence. Montenegro did not adopt measures to counter stereotypes and discriminatory practices, or the trafficking and exploitation of prostitution. The phenomenon of sex-selective abortions remains an area of concern and requires institutional follow-up.

A protocol on processing cases of **violence against women and domestic violence** was adopted in September 2018 and an interdisciplinary operational team was set up. Work is ongoing to set up a single electronic database on domestic violence to enable automatic data exchange between the Ministry of Interior and social work centres. Some improvement in the cooperation between the MoI and CSOs has been reported. However, implementation of the Istanbul Convention is proceeding slowly, and gender-based violence remains a serious concern. Particular areas of concern are: attitudes towards victims of domestic violence, referrals of victims to other forms of dispute resolution, the use of counselling as an alternative to criminal complaints, delays in handling domestic violence cases and a reluctance to issue protection orders. Despite an increase in criminal complaints, lenient penal policy and the practice of processing gender-based violence cases as misdemeanour cases risk discouraging victims to report offences. There is little improvement in the capacity and gender sensitivity of existing institutions. Effective victim support services are yet to be provided, along with better and more accessible legal aid.

Regarding the **rights of the child**, a working group was set up to monitor the implementation of the Strategy for the Prevention and Protection of Children from Violence, and the Ministry of Education assumed the responsibility for its implementation. Better coordination and

monitoring of policies concerning children is needed. The institutional response needs to become more proactive, and should be accompanied by harmonised data collection among the child rights monitoring bodies, as well as additional financial resources. More efforts are also necessary to address forced child marriages and child begging, which affect mostly the Roma community, as well as overall violence against children. The treatment of juveniles in prisons also calls for improvement. The very low number of reported cases of sexual violence against children raises concerns about underreporting and identification of victims. The de-institutionalisation process continues slowly, and needs to be accelerated and supported by alternative services, including through the strengthening of child protections systems and the development of foster care. The overall access and quality of child and social protection services and of inclusive education for children with disabilities should be improved, together with the nationwide early detection, intervention and rehabilitation services.

Little progress was made on the **rights of persons with disabilities**, including on legislative alignment with the UN Convention on the Rights of Persons with Disabilities. Montenegro is yet to adopt an action plan to address the recommendations from the UN Committee on Rights of Persons with Disabilities. Amendments to the Law on professional rehabilitation were prepared in 2018, but are yet to be adopted. Montenegro needs to ensure adequate and transparent spending from the future fund for professional rehabilitation. The issue of deprivation of legal capacity remains to be addressed without delay, in line with the UN Convention. An adequate budget needs to be allocated to implement the strategic and legal framework. De-institutionalisation of persons with disabilities and the adaptation of public buildings to ensure access to persons with disabilities is progressing slowly. Further efforts are needed to implement the strategies on mental health and de-institutionalisation of mental health patients, and relevant community-based services need to be developed. Likewise, Montenegro needs to further improve the consultation mechanisms for persons with disabilities and their representative organisations.

On the **rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons**, cooperation between civil society, the government and police remains constructive. The Law on civil partnership is currently awaiting adoption in Parliament. The national LGBTI strategy (2013-2018) expired, but a significant portion of the planned activities were not completed. A new national LGBTI strategy is under preparation; its implementation will require adequate budgetary allocations, ownership and genuine and constructive consultations with CSOs. In November 2018, the national pride parade took place in Podgorica without incidents and in an overall peaceful atmosphere. Despite existing legislation providing for protection on grounds of sexual orientation and gender identity, the number of reported cases of hate crime and hate speech towards LGBTI persons is increasing and prosecution of these crimes remain insufficient. Overall, acceptance of sexual diversity is advancing at a slow pace. Continued and proactive efforts are necessary to ensure full and effective implementation of the existing legal and policy framework.

In the field of **procedural rights**, substantial efforts are needed along with sufficient budgetary allocations to ensure full alignment with the EU *acquis* and European standards, notably on rights for suspects and accused persons in criminal proceedings (including the right to information and the right of access to a lawyer), as well as on victims' rights. Dissemination of information on free legal aid has begun, but deficiencies in terms of awareness and accessibility remain, also with regard to children and other vulnerable groups. Concerns still persist regarding the effective application of the ECtHR case-law in cases of prolonged pre-trial detention.

Little progress was made on **minority rights**. The 2017 Law on the rights of minorities is yet to be implemented, despite the existence of secondary legislation. In accordance with this law,

Montenegro needs to eliminate the risk of conflict of interest in the process of allocating funds to minorities. Parliament is in the process of appointing members of the independent commission for evaluation of projects funded from the minority fund. However, there are concerns regarding the qualifications of some of the proposed candidates. Ethnically disaggregated data is not systematically collected in the country. In April 2019, the Government condemned an ethnically motivated attack on a member of Croat national minority.

Despite some progress, particularly on access to health and housing of IDPs, **Roma and Egyptians**, especially domicile Roma and Egyptians, still face limited access to opportunities in various areas of life, with women being subject to double discrimination. The budget for the 2016-2020 strategy for social inclusion of Roma and Egyptians remains insufficient to achieve its objectives. Almost all marginalised Roma and Egyptians in Montenegro (94%) face severe material deprivation, compared to 49% of non-Roma living in the vicinity.

There has been an increase in the enrolment of Roma and Egyptian pupils at pre-school and compulsory levels, but not in the completion rate. Both enrolment (62%) and completion rates (34%) for compulsory education remain the lowest in the Western Balkans. A number of positive measures have been implemented, notably the appointment of Roma education mediators, with 18 mediators hired from the 2018/19 school year. A system for identification of early dropout risks is now in place and a protocol for prevention and action upon early school leaving has been adopted. Insufficient attention is given to adult education. In spite of active employment measures, the employment rate among marginalised Roma and Egyptians was only 15% in 2017, versus 38% among non-Roma living in their vicinity. Informal employment continues to be high and a negative trend can be seen compared to 2011 data. The great majority of marginalised Roma and Egyptians have health insurance coverage, although there has been an increase in the gap with respect to non-Roma neighbours. Three Roma health mediators are employed in state-run health centres.

Some Roma and Egyptians benefited from housing solutions through the Regional Housing Programme and the programme for identifying durable solutions for residents in the Konik camp. However, a gap remains compared to non-Roma neighbours when it comes to overcrowding and access to public services. The authorities should address improving housing conditions of domicile Roma and Egyptians in a dynamic and positive way, addressing the risk of eviction and further facilitating the legalisation process. Possession of civil documentation among marginalised Roma and Egyptians is on the rise, with about 96% having birth certificates and 83% of those aged 16 and above a national ID card. There is a lack of a systemic solution and institutional response to child begging and early marriage risks among Roma children.

Regarding displaced and **internally displaced people**, a total of 15 197 requests for permanent or temporary residence have been submitted, of which 14 956 have been resolved. 12 308 persons were granted permanent residence and 615 persons granted temporary residence, while 2 365 requests were dismissed due to incomplete or double applications.

Related to **statelessness**, birth registration of children abandoned by their mothers remains a challenge, as the Ministry of Interior does not register children in such circumstances. The adoption of the new Law on foreigners in February 2018 represented a major positive development, introducing a statelessness determination procedure. The new procedure and legal status have been further defined by means of relevant secondary legislation adopted in November 2018.

On **citizens' rights**, in November 2018 the government adopted a decision introducing a citizenship by investment scheme. The decision specifies the criteria, method and procedures



for the selection of investors who could obtain Montenegrin citizenship. The programme was launched in January 2019. Montenegro should put in place robust monitoring systems to counter the risks posed by such schemes, in particular to counter security risks, money laundering, tax evasion, terrorist financing, corruption and infiltration of organised crime. As a candidate country, Montenegro should refrain from any measure that could jeopardise attainment of the EU's objectives, when using its prerogatives to award nationality.

### 2.2.2 Chapter 24: Justice, freedom and security

*The EU has common rules for border control, visas, external migration and asylum. Schengen cooperation entails lifting border controls inside the EU. There is also cooperation in the fight against organised crime and terrorism, and judicial, police and customs cooperation.*

Montenegro is **moderately prepared** to apply the *acquis* and European standards in this area. The legislative and institutional frameworks are now largely in place. **Some progress** was achieved in addressing last year's recommendations, in particular as regards improving capacity to deal with migration flows and improving cooperation with neighbouring countries on border management issues.

Progress was achieved also in judicial cooperation, in some areas of the fight against organised crime, where until recently there was a standstill. Montenegro has developed an initial track record on investigations into money laundering, of financial investigations and of temporary seizures of criminal assets. The enhanced international police cooperation is bringing results, as illustrated by a number of high-profile international operations, arrests and drug seizures.

Further results are needed to produce a convincing track record on the more complex types of organised crimes where local vested interests are at stake, including in money laundering, trafficking in human beings and tobacco smuggling, as well as in the confiscation of proceeds of crime.

In the coming year, Montenegro should in particular:

- adopt standard operating procedures on conducting financial investigations when dealing with organised crime, terrorism, money laundering and serious corruption cases, and take concrete steps to ensure that financial investigations are automatically started together with the criminal investigations;
- take concrete measures to limit the use of plea bargains to exceptional cases, in order to enhance the transparency and the credibility of the judicial response to organised crime through a more deterrent and consistent sanctioning policy;
- further strengthen the capacity to deal with mixed migration flows and the integration of refugees; continue to increase human and material resources devoted to border management and the migrant registration system.

Montenegro is implementing a detailed action plan, which was adopted prior to the opening of the accession negotiations on this chapter in December 2013.

#### **Fight against organised crime**

Montenegro has **some level of preparation** in the fight against organised crime. **Some progress** was made in addressing last year's recommendations. The fight against organised crime is showing better results than in preceding years, partly due to the strengthened police cooperation with EU Member States. However, Montenegro has yet to establish a convincing track record on final convictions, in particular in the fight against trafficking in human beings, money laundering, tobacco smuggling and to increase the number of final asset confiscations.

In the coming year, Montenegro should in particular:

- prioritise the confiscation of proceeds of crime, including through firm political support and by raising public awareness about the importance of confiscating the proceeds of crime. Establish an integrated operational approach with all bodies involved and provide them with the necessary legal and operational tools to create the conditions for establishing a convincing track record;
- improve the efficiency of financial investigations by updating the land register and by working on the establishment of a centralised bank account register, in line with the provisions of the 5th EU Money Laundering Directive;
- take the appropriate legal measures to initiate the reform of the police, in order to raise its level of professionalism, including by ensuring a centralised, transparent and merit-based recruitment process, and by attracting staff of the relevant level.

#### Institutional set-up and legal alignment

The total number of police officers increased to 4 123 (compared with 3 940 last year). This does not include the border police officers, who account for 1 277. There are 662 police officers per 100 000 inhabitants, compared with the EU average of 318 in 2016 according to Eurostat. Key **institutions** in the fight against organised crime include the Special Police Unit (SPU) reporting directly to the Special Prosecutor's Office (SPO). The SPU human resources were substantially increased by almost 50%, up to 29 staff members. In the SPO, 35 out of the 37 positions are filled, including 11 special prosecutors, while two additional prosecutors are temporarily seconded to the SPO. The poor office conditions of the SPO have yet to be addressed. Good cooperation between the SPU and the SPO continued.

The police sector underwent significant institutional changes. In December 2018, the Police Directorate was changed into a separate entity from the Ministry of Interior. At the same time, the Administration for the Prevention of Money Laundering (until now an independent administration) was transferred to the Police Directorate. Other measures that should have been part of the police reform process, such as merit-based recruitment, evaluation, promotion, and the placing of the Police Academy under the authority of the Ministry of Interior, were again postponed, even though they had been under discussion for over two years. Since February 2018, the police has a specialised department for the fight against human trafficking, smuggling and irregular migration, which has now eight staff members.

Montenegro has an asset management office (AMO) under the Ministry of Property Administration. An asset recovery office (ARO) was established in early 2019 within the department of the police responsible for international police cooperation. It serves as a contact point for international information exchange and processes the incoming requests from foreign AROs. The establishment of a fully-fledged ARO, as required by the EU *acquis*, beyond the processing of foreign information requests, is key to effectively identifying, tracing and recovering assets frozen before confiscation and preserving their value pending judicial determination.

The **legal framework** for the fight against organised crime is largely in place and aligned with EU *acquis*. To comply with the recommendations of the Council of Europe's Committee of experts on the evaluation of anti-money laundering measures and financing of terrorism (MONEYVAL), amendments were adopted in June and July 2018 respectively to the Law on the prevention of money laundering and terrorism financing, and to the Law on international restrictive measures. An amendment to the Law on the seizure and confiscation of assets was

also adopted by the government in early 2019, aiming to facilitate the launch of financial investigations.

Montenegro has a comprehensive **strategic framework** on the fight against organised crime. However, several relevant strategies, such as the strategy for prevention and suppression of terrorism, money laundering and financing of terrorism, expired during 2018, and their replacements have not yet been adopted. Montenegro should systematically monitor and assess the impact of old strategies prior to adopting new ones in line with new rules on the development, drafting, monitoring and evaluation of strategic planning documents, which came into force in August 2018. New strategies should also refer to alignment with the EU *acquis* and address the recommendations of relevant Member States' expert reports.

#### Implementation and enforcement capacity

As regards the track record, according to the national 2018-19 SOCTA (serious and organised crime threat assessment), since 2013 the number of organised criminal groups in Montenegro has been reduced from 20 to 11. Nevertheless, criminal activities continued to lead to frequent gang-related murders (7 in 2018, compared with 10 in 2017). These were mostly committed in daytime in city centres, and involved either shootings or car explosions. One suspected Montenegrin crime group member was shot dead in a restaurant in the centre of Vienna in January 2019.

In 2018, 13 new investigations for organised crime-related offences were launched by the SPO against 262 individuals. In addition, 186 new investigations for serious crime-related offences were launched by high and basic prosecutor's offices, mostly related to drug smuggling. A total of 207 indictments were filed against 289 individuals for organised and serious crime offences, and 33 sentences were imposed based on plea agreements in organised crime cases. The systematic use of plea bargains creates a sense of impunity and hampers the credibility of the justice system. There is an urgent need to address the gap between the sentencing regime applied (including limited asset confiscation) and the seriousness of the crimes tried.

In 2018 Montenegro made good progress in international police cooperation. This is a key step in the fight against Montenegrin organised crime groups, as most of their members live, operate and launder money outside Montenegro. Cooperation with foreign police services, including from EU Member States, was intensified with the support of EU technical assistance, and led to an unprecedented number of successful operations. 38 members of organised crime groups, including several leaders, were arrested in 2018 either in Montenegro or abroad, thanks to police cooperation with Bulgaria, France, Slovenia, Italy, Croatia, Czechia, Germany, Austria, Portugal, Spain, Croatia, Serbia, Kosovo\*, Turkey and Switzerland. Investigations on prominent cases are ongoing with other Member States as well. The close cooperation between Italian and Montenegrin police has led to one of the biggest drug seizures in recent history. Thanks to specific intelligence from Montenegrin police, in July 2018 Italian police seized 20 tonnes of cannabis worth EUR 200 million from a Panamanian-flagged ship in the Mediterranean Sea and arrested the crew composed of 11 Montenegrin citizens.

Montenegro also cooperates with Interpol and Europol, including through its participation in analytical work programmes (e.g. the 'Smoke', 'Cannabis', 'Cola', 'Sustrans' and 'Travellers' programmes). In 2018, Montenegro participated in the annual planning of

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\* 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.

operational actions under the European Multidisciplinary Platform against Criminal Threats (EMPACT) on facilitation of irregular migration. It committed itself to participate in three operational actions together with EU Member States to combat migrant smuggling in 2019. The Schengen Information System is incorporated into the national database and the Secure Information Exchange Network Application (SIENA) is used as a national case management application for automatic communication with Europol. In 2018, 4 447 pieces of information were exchanged through Europol (compared with 2 795 in 2017), and 46 406 through Interpol. Montenegro's law enforcement agencies should make a better use of regional initiatives, such as the Joint Operational Office in Vienna, and the Task Force Western Balkans, which serves as a regional operational platform for international investigations into migrant-smuggling organised crime groups. Since the signature in 2017 of an inter-agency agreement on the prevention of crime, law-enforcement agencies have a secure channel of communication with key state institutions, enabling mutual access to databases. The agreement will need to be revised to take into account the new institutional setup. The national land registry and the central bank still need to join the agreement. Despite this improved communication, existing national police databases are still not interoperable and have no single search feature. Many databases, including the national land register database, have insufficient data and need to be updated.

Montenegro has reached a good level of preparation to implement the EU *acquis* on **international police cooperation**. In May 2018, Montenegro became the first candidate country to join the EU ISA<sup>2</sup> (Interoperability Solutions for European Public Administrations, businesses and citizens) programme, which allows Montenegro to participate in ISA<sup>2</sup> activities and benefit from the interoperability solutions developed under the programme. Since the signature in September 2018 of the agreement on the automated exchange of DNA, fingerprint and vehicle registration data among member countries of the Police Cooperation Convention for Southeast Europe (PCC SEE), Montenegro can exchange sensitive data with Albania, Bulgaria, Hungary, North Macedonia, Moldova, Romania, Serbia and Austria. Technical solutions must however continue to be improved.

Some technical, operational and legal obstacles continue to hamper the efficiency of the police. Proactive investigations based on **intelligence-led policing** remain rare, compared with those launched based on signals received. The police should act more on its own initiative and prosecutors should delegate more actions to the police. This much-needed shift in investigative practice requires a better exchange of data between the local and the central levels.

Seven new **financial investigations** were launched in relation to organised crime in 2018 and the beginning of 2019, compared with 18 in 2017 and one in 2016, while 10 financial investigations were launched in relation to serious crime. Financial investigations are still not launched systematically at the beginning of each criminal investigation into organised crime. A more strategic and proactive approach must be promoted with regard to financial investigations, going beyond the sole objective of confiscating assets. Training and capacity building continued for judges, prosecutors and investigators on financial investigations. The absence of a central bank account register is slowing down financial investigations and limiting their efficiency. There is also limited capacity to analyse financial data provided by banks and financial institutions and to feed it into financial investigations. Only 7 orders of temporary **asset confiscation** were issued by the Special Prosecutor's Office in 2018 (compared with 20 in 2017 and 5 in 2016), and affected more than 121 legal entities. Only 1 conviction led to a final asset confiscation in 2018, compared with 12 in 2017 and 37 in 2016. The use of plea bargains as a tool to increase the level of confiscations continued to lead to milder sentences in organised crime cases, but did not result in a higher number of final

confiscations. There is no national and standardised system for collecting statistics on frozen, seized and confiscated assets, including their estimated value. Montenegro should urgently improve its track record on final confiscation of the proceeds of crime as a strategic policy priority in the fight against organised crime.

Montenegro is a party to the Council of Europe's Budapest Convention on **cybercrime**, which is largely transposed in the national legislation. A new cybersecurity strategy, encompassing a component on cybercrime, was adopted in December 2018. However, there is no separated strategy on the fight against cybercrime. Ten new investigations were launched in relation to cybercrime in 2018, leading to 10 indictments. With the recruitment of an additional staff member, there are now two police officers in charge of the fight against cybercrime in the relevant police service, which is far too low considering the risk factors. Montenegro's administrative capacities to fight cybercrime and cyber-enabled crime must be addressed as a matter of priority.

The legal and institutional framework for **trafficking in human beings** is in place. For the first time, in five years, a first-instance court decision was issued in a trafficking case with the two defendants being sentenced to a prison sentence of 17 and 15 years respectively. The number of on-going investigations rose to three, involving five potential victims. In addition, four cases involving nine potential victims, of which four are children, are under preliminary investigation. However, the cases are not related to organised crime and no important trafficking rings has been uncovered in recent years, despite objective risk factors. Training, prevention and awareness-raising activities took place. A new 2019-24 strategy and annual action plan were adopted in early 2019, reflecting a stronger awareness of the risk factors in the country and aiming at strengthening the efficiency of law-enforcement agencies in the detection and prosecution of trafficking cases. Risk assessment and proactive investigations must become general practices in this area, as no signal or complaint from victims can be expected due to the nature of the crime. A good step in this direction was the creation of an anti-trafficking task force in December 2018, bringing together representatives of the Ministries of Justice and Interior, the police and the prosecution service. The Podgorica High Prosecutor's Office established a supervision mechanism over cases prosecuted at lower judicial level for other offenses such as prostitution and child begging to detect potential human trafficking elements in these cases. Montenegro is yet to demonstrate that it is capable of establishing a solid track record in this area.

An initial track record of investigations in the fight against **money laundering** is being developed, but did not result in any conviction so far. One investigation and 16 preliminary investigations were launched in 2018, in which money laundering is prosecuted as a stand-alone crime – this is a long-standing policy recommendation. More than EUR 63.7 million were temporarily seized in relation to these cases, including EUR 62.7 million in the 'Atlas bank' case, involving 79 people and 95 companies. Strengthened police cooperation with EU Member States (e.g. Cyprus) has substantially improved the effectiveness of investigations in this area. However, the economic expertise within the police and prosecution is still insufficient. More systematic specialised training is needed for judges who are called to rule on complex crimes with important financial implications.

Montenegro continued to participate in the implementation of the 2015-2019 action plan on **illicit trafficking on firearms** between the EU and the South East Europe region. The strategy for control and reduction of small arms and light weapons and ammunition was adopted in December 2018. The function of a national focal point on firearms will be fulfilled by a centre of expertise on firearms within the police. The centre will have a staff of four specialists providing analytical support to law enforcement bodies and will have responsibility for international cooperation. The process of training and equipping of the centre is ongoing.

Montenegro participates in Europol operational activities within the European multidisciplinary platform against criminal threats (EMPACT) on firearms. Despite the success of several initiatives and significant seizures of arms in 2018, firearms are still widely available in the country.

Montenegro is still perceived as a regional platform for **cigarette smuggling** and as an entry point to the EU market. In 2018, there was an increase in illicit tobacco seizures, up to 11,500 cigarette packages with a total value of EUR 11.5 million, leading to several investigations. In one prominent case, eight customs officials from the Port of Bar were arrested and are being prosecuted for corruption, together with 17 other people. However, no financial investigation was launched in relation to this case. The CEO of the main Montenegrin tobacco factory was convicted for abuse of office in a cigarette smuggling case, sentenced to 9 months in prison and fined EUR 40,000 following a plea bargain, but no financial investigation was conducted and no assets were confiscated. Cooperation has improved with EU Member States' customs and the European Antifraud Office (OLAF) in this area, but Montenegro should step up joint investigations of the border police, the criminal police and customs. The country should make it a national priority to establish a strategic response to the vulnerability of the Port of Bar Free Zone, including the risk of political interference in the work of law-enforcement agencies and the infiltration of criminal interests into the local chains of command.

On **witness protection**, protection measures were undertaken in relation to 47 people, of which 45 were requested by partner countries, including 44 relating to war crime cases.

Proactively fighting organised crime and corruption remains fundamental to countering criminal infiltration of the political, legal and economic systems.

## **Cooperation in the field of drugs**

### Institutional setup and legal alignment

The legal, institutional and strategic frameworks are largely in place. Montenegro continued to implement its 2013-2020 national drug strategy and action plan, including by training relevant staff. Various institutions, such as the National Drug Observatory of Montenegro, nevertheless remain understaffed and further steps are needed to build up the necessary capacity to effectively deal with the demand side of drugs. As regards the supply side, the Special Police Unit and the Criminal Police are both mandated to deal with drug-related crimes, one of their main priority areas.

### Implementation and enforcement capacity

Montenegro remains an entry and transit country for drugs to the European market. Drug trafficking is by far the main and most profitable criminal activity of local organised crime groups, and triggers many other criminal activities, such as homicides, gangs-related murders and traffic in firearms. Montenegrin organised crime groups are active in the trafficking of cannabis, heroin and cocaine, and they have direct links to crime groups in South America, which gives them a dominant position for the supply of cocaine to Europe. They operate largely outside Montenegro, including in EU countries, although local trafficking and consumption also exist.

The number of new investigations into cases of drug smuggling rose to 155 in 2018, of which 5 qualifying for organised crime and 150 for serious crime. Some 177 criminal charges were filed against 249 people. The amount of drug seizures continued to grow, with 3.3 tonnes of drugs seized in 2018, in which marijuana accounted for 3.2 tonnes. In 87 drug-related court decisions, the sentence imposed was based on a plea agreement. Financial investigations, seizure and confiscation of the proceeds of drug-related crimes remain rare. The lack of

secure storage for drugs and drug precursors prior to destruction remains an issue of concern. According to current legislation, it is not possible to keep only a small sample as material evidence for court proceedings, instead of the entire seized quantity. An appropriate process for the destruction of precursors has yet to be set up.

International police cooperation on drugs-related cases, including *via* Europol and Interpol, increased significantly during the reporting period, as illustrated by the large amount of information exchanged and operational meetings held on drug-related cases. The Montenegrin police is an active member of Europol *Balkan Kartel* project. Montenegro participated in four multi-country police operations involving also Austria, Slovenia, Croatia, Italy, Germany, France, the US, Australia, Albania, Serbia.

Little progress was made on strengthening the national drug information system on new psychoactive substances in line with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) standards. In 2018, Montenegro reported one first-time detection of a new psychoactive substance in its territory. However, its national early warning system requires further strengthening. Data collection on drugs remains fragmented and is not centralised. Montenegro should also improve its coordination at national level by: (i) hiring more staff and giving them improved training; (ii) creating a routine system for data collection and increasing the exchange of information; (iii) preparing a country drug report giving an overview of the drug situation in the country. The recommendations from a July 2018 report from the EMCDDA have not been addressed yet.

## **Fight against terrorism**

### Institutional setup and legal alignment

Montenegro's legal framework is largely aligned with the EU *acquis* and international instruments on anti-terrorism. The Laws on prevention of money laundering and terrorism financing and on international restrictive measures were amended to comply with the Financial Action Task Force (FATF) and Moneyval recommendations, but the Law on international restrictive measures will need further amendments to be aligned with the EU *acquis*.

A new strategy for the prevention of terrorism, money laundering and terrorism financing is yet to be adopted following the expiration of the previous one, while the strategy to combat violent extremism is extended until the end of 2019. Montenegro appointed a national coordinator for countering violent extremism. Montenegro signed in October 2018 the joint action plan on counter-terrorism for the Western Balkans setting out specific steps for enhanced cooperation in countering terrorism, including on money laundering and terrorism financing, and preventing radicalisation over the next 2 years. Montenegro should now work on the bilateral follow-up of priority actions.

### Implementation and enforcement capacity

The number of investigations and prosecutions remains very low in this area. The country has been only marginally affected by the phenomenon of radicalisation and foreign fighters so far. There is evidence of 26 departures of nationals to the battlefield in Syria since the beginning of the conflict, of which seven were killed. Some 10 returnees from Syria were identified, of which two were sentenced.

Preventive monitoring measures for critical infrastructure are being implemented in Podgorica and on the coast during the summer season. Reconstruction works of three military warehouses in Nikšić and Pljevlja were carried out to modernise the storage conditions for ammunition.

The Ministry of Interior is cooperating with an NGO within the national platform for the prevention of violent extremism and radicalisation, to develop awareness-raising activities; including e-learning tools. Further preventive anti-radicalisation activities are needed, also involving local authorities and civil society organisations in the prevention of radicalisation at local level. Institutional awareness needs to be increased to monitor possible terrorist threats, and to develop reintegration measures when radicalised people return.

Montenegro is actively participating in the implementation of the Western Balkan Counter Terrorism Initiative (WBCTi).

## **Legal and irregular migration**

### Institutional setup and legal alignment

The legal framework was further strengthened with the entry into force of the new Law on Foreigners in March 2018, and the adoption of 20 pieces of secondary legislation. This important legal package, largely in line with the EU *acquis*, regulates key aspects of legal and irregular migration. The Law introduced important new features, such as laying down rules on stateless status and introducing a definition of assisted voluntary return.

In addition to its 13 existing implementing protocols on readmission with EU Member States, Montenegro signed an implementing protocol with Spain in December 2018 and is holding negotiations with Greece. Montenegro also expressed interest in negotiating implementing protocols with France, Sweden, Denmark, Finland, Cyprus, Poland, Portugal, Romania, Lithuania and Latvia.

Montenegro has 10 readmission agreements with non-EU countries (including all its neighbouring countries, North Macedonia and Turkey) and is holding negotiations with Iceland and China.

### Implementation and enforcement capacity

As regards legal migration, Montenegro delivered 15 543 resident permits in 2018, including 1 540 for long stays. Montenegro is an attractive country for labour migration. It receives seasonal workers, mainly from Western Balkans countries, in its tourism and construction sectors during the summer. Procedures for requesting work permits were simplified. Some 26 327 work permits were delivered in 2018, a 25% increase compared with 2017, but the number of foreign workers without permits is believed to be much higher. Supervision of the private sector should be strengthened to avoid exploitation on the black labour market.

In 2018, Montenegro was hit by a sharp surge in irregular migration, due to the partial shift of regional migration flows towards the ‘coastal route’ (Albania, Montenegro and Bosnia and Herzegovina). Montenegrin authorities apprehended 4 753 irregular migrants (a 460% increase compared with 2017), which put the country’s reception and administrative capacities under pressure. Montenegrin authorities prevented 594 illegal entries to the country and 715 illegal exits from the country. There were three new investigations into migrant smuggling, often conducted in cooperation with partner countries’ police services. Assisted voluntary returns increased to 34, but they were handled by international organisations and financed by the EU.

The burden on Montenegro’s reception facilities was increased by secondary movements, in particular those created by readmissions from Bosnia and Herzegovina. Montenegro accepted to readmit 730 third country nationals from neighbouring countries in 2018, of which 704 from Bosnia and Herzegovina. However, it was able to return only 36 third country nationals to Albania, although Albania remains the main entry point to Montenegro. Efforts to improve



bilateral cooperation with Albanian authorities must continue to improve implementation of the bilateral readmission agreement and harmonisation of data collection systems.

Construction works for an open migration centre in Božaj, close to the Albanian border, are planned for 2020, with EU financial support. As a temporary solution, a container settlement was established on the same site, also with EU support, creating a reception capacity for 60 people. Although the border police collects migrants' fingerprints on paper, the lack of resources have prevented so far the establishment of an electronic fingerprint registration system at the border.

The readmission agreement with the EU continued to be implemented smoothly regarding Montenegrin nationals, with the number of readmission requests from EU Member States continuing to decrease. According to Montenegrin authorities, Montenegro accepted 100% of readmission requests concerning Montenegrin nationals, or 402 individuals. However, 93% of the requests regarding non-Montenegrin nationals were refused, mostly regarding members of the Roma community with an invalid passport from the former Yugoslavia who did not meet the conditions for readmission according to the Montenegrin authorities.

Montenegro must continue its efforts to cope with migratory pressure and increase its national capacity to do so. Voluntary return mechanisms should be established and bilateral readmission agreements with main source countries of irregular migrants (such as Pakistan, Iraq, Iran, Morocco, Algeria) concluded. In the fight against migrant smuggling, law enforcement agencies should continue to use regional initiatives and to participate in joint investigation teams with other countries. Setting up an electronic fingerprint registration system at the border would substantially improve collection, management and sharing of migration data.

## **Asylum**

### Institutional set-up and legal alignment

With the adoption of the secondary legislation for the Law on asylum, Montenegro is now equipped with a largely EU-compliant legal framework. The Decree on financial assistance to people under international protection provides for monthly payments of financial assistance to refugees and a single payment to asylum seekers. The role of the Ministry of Interior has been strengthened, including a coordinating role for the integration of people under international protection, and the provision of financial assistance. A database of people granted international protection is being developed with the aim of tracing the public services delivered.

Despite the continuous training delivered in 2018, migration management capacities remain limited, which often results in overstressing the system. Civil servants have limited opportunities to gain operational experience in status determination or integration, as most of the asylum applicants leave the country before the end of the procedure. An information document for asylum seekers explaining the application procedure in seven languages, developed with EU and UNHCR support, is distributed at border points. The brochure on 'rights and obligation of beneficiaries of international protection' was finalised and published.

### Implementation and enforcement capacity

In 2018, Montenegro demonstrated its resilience and commitment to address several migratory challenges at the same time. It adapted to a sharp surge in numbers at a time when rules and procedures were becoming qualitatively more demanding. As most detected irregular migrants requested asylum, the upward trend in irregular migration was reflected in a proportional increase of asylum requests. Some 4 570 people declared their intention to seek

asylum, 3 127 of which subsequently lodged an asylum request. This represents a 268% increase compared with 2017, and 9% of applicants were accompanied children (compared with 6% in 2017). Syrians, Pakistanis, Algerians, Iraqis and Moroccans together made up 83% of all declared nationalities. In 96% of processed cases, the applicants absconded. A total of 14 applicants were granted a protection status in 2018, which brings to 75 the total number of positive decisions in Montenegro since the asylum system was set up. However, only a few are still in the country.

The Administrative Court, which is now in charge of the asylum appeal procedure, processed 28 appeals against negative decisions of the Asylum Office. However, in several cases the applicants also absconded before the end of the appeal procedure.

The reception capacity stands now at 304 beds in total, including 104 in the centre for asylum seekers and 200 in the alternative facility. In addition, 25 non-accompanied minors can be accommodated in a specialised centre, which is, however, a closed facility primarily used for minors in conflict with the law. There are hardly any cases of non-accompanied minors in Montenegro. Between January and September 2018, 4 570 people were accommodated in these facilities, mainly for short stays of one week. On average the number of people to be accommodated was between 130-140 a day. The costs incurred by the state budget for asylum exceeded EUR 1 million and represented a five-fold increase compared with 2017. The country's capacity can still not be considered as sufficient, as long as the alternative facility does not offer appropriate standards of accommodation and access to services. The government is therefore considering alternatives to further increase capacity at the main centre for asylum seekers. The integration of people granted international protection continued to rely on external assistance, as there was no domestic financial support for the integration policy.

Efforts should be continued to further enhance reception and operational capacities. Modernising the data collection tools would prevent double registration of migrants in the asylum system following secondary movements, as re-entry, subsequent applications or further representations have to be correctly registered in line with the relevant EU asylum rules. Better inter-ministerial coordination and more involvement of the social ministries in the integration phase are necessary for the country's asylum policy to reach its full potential.

### **Visa policy**

Montenegro continued to align its visa policy with the EU *acquis*, adding Georgia to the list of countries benefiting from a visa-free regime. There are now 23 countries from the EU visa-free list for which short-term visa requirements are waived by Montenegro.

However, Montenegro still exempts nationals from Russia, Armenia, Kazakhstan, Azerbaijan, Belarus, Cuba, Ecuador, Kuwait and Turkey from short-term visa requirements – either on a seasonal basis for tourism purposes or permanently. Seasonal visa exemption measures are not in line with the EU *acquis*, and these countries are on the EU list of countries whose citizens require a visa for the EU. Montenegro should take concrete steps to fully align its visa policy with the EU visa policy. Between 1 January and 20 October 2018, four visas were issued at border crossing points for urgent or humanitarian reasons, under conditions that were in line with the *acquis*.

There are now 24 consular missions of Montenegro connected to the national visa information system and 6 more are expected to be connected in 2019. An internet portal for requesting Montenegrin visas online was created and connected to the national visa information system.

Under the post-visa-liberalisation process, Montenegro continued to implement the relevant measures to prevent the abuse of the visa-free regime with the EU and reported on it on a monthly basis.

Increased attention is required for successful reintegration of returnees, especially the most vulnerable such as Roma and Egyptians. Enhanced coordination is needed between the government, local authorities, international organisations and NGOs.

## **Schengen and external borders**

### Institutional set-up and legal alignment

The border police, a structure within the Ministry of Interior, is responsible for the management of Montenegro's borders. Montenegro has some level of preparation on Schengen and external borders. The legislative framework was further aligned with the EU *acquis* with the adoption of amendments to the Law on border control in November 2018. The strategy on Integrated Border Management (IBM) expired in 2018 but its duration was extended by one year, to ensure that the drafting of the new IBM strategy 2019-2024 takes into account the new EU IBM concept.

The amendments to the Law on internal affairs in December 2018 paves the way for the creation of a national coordination centre (NCC). The establishment of the centre is crucial to improve situational awareness, risk assessment capacity and the ability to respond to crises and coordinate with neighbouring countries.

### Implementation and enforcement capacity

Montenegro continued to strengthen its capacity in border management via numerous training activities, TAIEX support, and the purchase of equipment and vehicles. The mobile unit is now operational. Some 115 forged documents were seized, reflecting a stronger detection capacity at the borders. In total, 1309 illegal border crossings were prevented.

The material and human resources in the border police remain nevertheless insufficient to cope with the challenges. The number of border police staff is 1 277, and 150 work positions are still to be filled. According to the Schengen action plan, around 600 more border police officers would be needed. Montenegro's temporary response in August 2018 was to deploy military personnel in support to the border police for patrols on the Montenegrin-Albanian border, the main entry point for irregular migration.

Cooperation with neighbouring countries at technical level remains good, with continued joint patrols. A new joint border crossing point with Albania (Ckila-Zogai) was opened in July 2018, and several protocols and agreements were signed. Border cooperation with Serbia progressed significantly with the signature in August 2018 of nine bilateral agreements concerning several international border crossing points and joint border crossing points. There was no progress, however, on the closure of the 87 roads crossing the border with Serbia without any official border crossing points. Both regional centres for police cooperation in Trebinje and Plav are operational. The border demarcation agreement with Kosovo came into force in June 2018.

However, at land and sea borders the situational awareness and reaction capability remain insufficient. Most of the current border crossing points are still too small and not fully compliant with Schengen requirements. Montenegro continues to face significant technical shortcomings as regards electronic surveillance, in particular at the border with Albania. More financial resources need to be devoted to modernising border infrastructure. Border police participation in combating and investigating cross-border crime should be intensified. The Advance Passengers' Information system and carriers' liability (including imposing fines)

should be put in place. Cooperation with Adriatic Sea countries should be further strengthened, to address the challenges of this high-risk zone for cross-border crime, in particular drug and cigarette smuggling.

Montenegro continued to cooperate smoothly with Europol, Interpol and the European Border and Coast Guard Agency on countering cross-border criminal activities. The Status Agreement with the EU for deploying European Border and Coast Guard teams with executive powers to Montenegro was initialled in February 2019. Montenegro actively participated in the Western Balkan risk analysis network.

### **Judicial cooperation in civil and criminal matters**

In the course of 2018, the legal framework was further aligned with the EU *acquis* through: (i) the adoption of the Law on judicial cooperation with EU Member States in criminal matters, a comprehensive piece of legislation encompassing 16 EU *acquis* instruments; (ii) amendments to the Law on civil procedures; and (iii) amendments to the Law on enforcement and security of claims. Montenegro is not a party to the 2007 Protocol to the Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance, relating to maintenance obligations, or to the 2000 Hague Convention on the International Protection of Adults.

The agreement on cooperation between Montenegro and Eurojust continued to be implemented. The appointment of a Montenegrin Liaison Prosecutor in 2017 had a positive impact on the number of cases involving Montenegro open in Eurojust, which rose from 2 in 2016 to 12 in 2018, mostly related to swindling, fraud and money laundering. There are two Montenegrin contact points for Eurojust, one of which is the national correspondent for terrorism matters. Montenegro is encouraged to take part in joint investigation teams whenever there is an operational need for it, as this would facilitate and increase its judicial cooperation with EU Member States.

Montenegro joined the EU Justice Programme in September 2018, which allows the country to participate in projects on judicial cooperation in a number of crucial areas.

Statistics produced by the national IT database for judicial cooperation (LURIS) show that Montenegro was increasingly involved in international judicial cooperation in 2018, both in criminal matters, with 1 086 new cases, and in civil matters with 871 new cases. The cooperation is based on bilateral agreements, on the Law on mutual legal assistance in criminal matters, and, when relevant, on the second protocol to the European Convention on mutual legal assistance. The first partners for judicial cooperation remain Western Balkan countries, in particular for criminal matters, and EU Member States. The backlog is being progressively addressed, thanks to the improvement of data input in LURIS and better communication between the Ministry of Justice and judicial authorities. The database, which is being further developed to integrate more analytical features, is expected to be integrated to the court IT system by 2020.

A training plan for judges, prosecutors and law enforcement officials was adopted by the Judicial Training Centre and the Police Academy and is being implemented. However, further training is needed to build up greater administrative capacity. Montenegro still has to complete a review of its administrative and budgetary capacity in judicial cooperation to address the needs in this area.

*All aspects of customs cooperation are now covered under Chapter 29 – Customs Union.*

### **Counterfeiting of the euro (criminal law aspects)**

The Central Bank of Montenegro has three national centres responsible for the fight against

counterfeiting of the euro: the National Counterfeit Centre, the National Analysis Centre and the Coin National Analysis Centre. Within the police, the National Central Office is responsible for field work on money counterfeiting and liaises with Europol and Interpol on cases. There were 12 cases of money counterfeiting investigated by law enforcement agencies in 2018 and four court decisions, including two resulting in prison sentences. The Central Bank continued to provide training for the police and the Supreme State Prosecutor's Office (see Chapter 32 Financial control).

### 3. FUNDAMENTALS FIRST: ECONOMIC DEVELOPMENT AND COMPETITIVENESS

Montenegro: Key economic figures	2010-15 average	2016	2017	2018
<b>GDP per capita</b> (% of EU-28 in PPS)	41.0	45.0	46.0	:
<b>Real GDP growth</b>	2.0	2.9	4.7	4.9
<b>Economic activity rate of the population aged 15-64 (%)</b> , total	59.8	63.4	63.5	64.8
<i>female</i>	48.3	56.6	56.5	57.2
<i>male</i>	66.3	70.2	70.5	72.3
<b>Unemployment rate (%)</b> , total	19.2	18.0	16.4	15.5
<i>female</i>	19.4	17.4	17.2	15.3
<i>male</i>	19.0	18.5	15.7	15.7
<b>Employment</b> (annual growth %)	0.5	1.1	2.1	3.2
<b>Nominal wages</b> (annual growth %)	2.1	3.5	2.0	0.1
<b>Consumer price index</b> (annual growth %)	1.9	0.1	2.8	2.9
<b>Exchange rate against EUR</b>	1.0	1.0	1.0	1.0
<b>Current account balance</b> (% of GDP)	-14.2	-16.2	-16.1	-17.2
<b>Net foreign direct investment, FDI</b> (% of GDP)	12.1	9.4	11.3	7.1
<b>General government balance</b> (% of GDP)	-5.1	-3.6	-5.3	-3.8
<b>General government debt</b> (% of GDP)	53.4	64.4	64.2	70.8

Source: Eurostat and national sources

*In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.*

*Economic governance has become even more central in the enlargement process in recent years. The European Commission monitoring takes place in two processes: the Economic Reform Programme exercise and the below assessment of compliance with the economic criteria for accession. Each enlargement country prepares an Economic Reform Programme (ERP) annually, which sets out a medium-term macro-fiscal policy framework and a structural reform agenda aimed at ensuring competitiveness and inclusive growth. The ERPs are the basis for country-specific policy guidance jointly adopted by the EU and the Western Balkans and Turkey at ministerial level in May each year.*

#### 3.1 The existence of a functioning market economy

Montenegro has made **some progress** and is **moderately prepared** in developing a functioning market economy. The economy continued expanding at a robust pace, improving labour market outcomes but the unemployment rate still remains high and the employment and activity rates very low. Despite positive export dynamics, the current account deficit remained very large, fuelled by strong domestic demand, and was only partially financed by net inflows of foreign direct investment. Financial sector solvency and liquidity ratios improved, but access to finance for small companies remains hampered by tight lending

conditions. Fiscal consolidation efforts continued through 2018, but the budget deficit target was missed by a wide margin while public debt reached a new record, partly due to the financing needs for a large highway project financed by an international loan. Private sector development remained constrained by weaknesses in the business environment, an inefficient judiciary and a high prevalence of informality, reflecting poor implementation capacity in key state institutions responsible for enforcing the rule of law and competition.

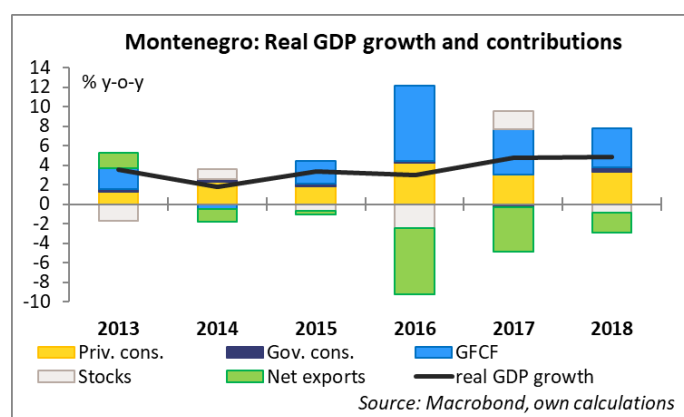
In order to improve the functioning of the market economy, Montenegro should in particular:

- strengthen debt sustainability by broadening the tax base and lowering the public sector wage bill as a percentage of GDP;
- provide public guidance on the implementation of laws that affect businesses and ensuring that the guidance is consistently followed by the public administration;
- develop a strategy to assess and reduce the informal economy and ensuring close cooperation between central and local authorities in fighting informality;
- strengthen employment activation measures and improving the coordination between employment and social services.

### Economic governance

**The implementation of economic and fiscal policy objectives has been delayed.** The debt management and fiscal strategies, adopted as a response to rising public debt, are the cornerstones for strengthened economic governance. However, despite some positive results, such as reduced refinancing risks and higher budget revenues, the 2018 budget deficit turned out to be higher than the revised deficit target. This delayed –once again– the objective of reaching a balanced budget. Important reforms like those of the public administration, the labour law and the pension system were delayed. The reform of the tax administration advanced slowly, while the restructuring of the indebted national air carrier stalled. Delays in implementing large infrastructure projects reveal absorption capacity constraints. The policy guidance jointly adopted in May 2018 in the context of the Economic and Financial Dialogue between the EU and the Western Balkans and Turkey was implemented to a limited extent.

### Macroeconomic stability



**Driven by investment and consumption, the economy has expanded at a robust pace.** After recording real growth of 4.7 % in 2017, the economy continued to expand at a healthy pace. In the first three quarters of 2018, GDP grew by 4.8 % year-on-year (y-o-y). Public and private investment have been the main drivers of growth in recent years, also reflected in the strong performance by the construction sector. In spite of

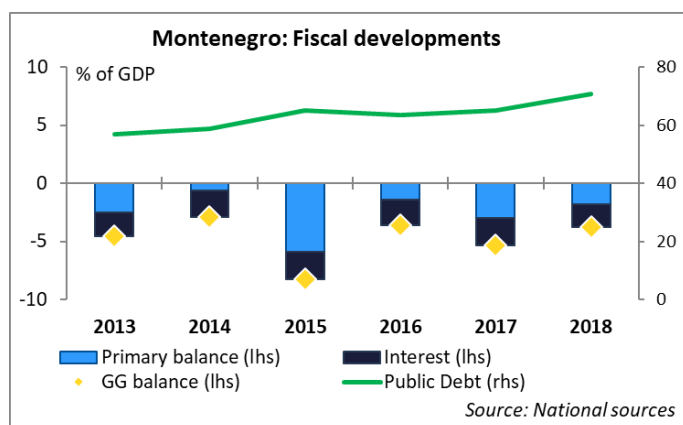
declining wages in real terms, household consumption was supported by bank lending, tourism expenditure on local services and remittances. Government consumption contributed modestly to GDP growth due to fiscal consolidation measures. Export performance accelerated in the first three quarters of 2018, surging by 14 % y-o-y. However, due to the much larger volume of imports, net exports continued to be a drag on growth. Overall, solid growth over recent years helped raise Montenegro's per-capita income in purchasing power

standards to 46 % of the EU-28 average, following a period of stagnation at around 41 % over 2010-2015.

**The sustained growth of domestic demand has continue to fuel a large current account deficit.** The completion of new hotels and power plants as well as the recovery of aluminium prices boosted exports in 2018 but was not sufficient to contain the expansion of the current account deficit. The current account widened to 17.2 % of GDP in 2018, compared to 16.1 % of GDP a year before. The merchandise trade deficit widened to 43.2 % of GDP as imports of goods outpaced the growth of exports. Rising exports of transport and tourism increased the services balance surplus to 20.3 % of GDP, or half percentage point higher compared to a year before. Net income and remittances from abroad brought about surpluses of 1.2 % and 5.7 % of GDP, respectively. Net inflows of foreign direct investment (FDI) only covered half of the current account deficit in 2018, contracting by 32.4 % over the year due to large outflows from the repayment of intercompany debt and the withdrawal of equity investment following the sale of a stake in the national electric company by its foreign owner.

**Stronger demand and tax increases led to higher inflation.** Consumer prices have recorded continuous growth since the end of 2016, further accelerating at the beginning of 2018 due to the introduction of higher rates for value-added-tax (VAT) and excise duties. After peaking at 3.4 % y-o-y in June, the government withdrew the increase in excise on tobacco products in July, allegedly due to a rise in illegal trade and poor excise revenue collection. As a result, inflation started to slow in the second half of the year, settling at 2.8 % the average annual rate for the whole year, compared to a lower rate of 2.0 % in the period 2011-2015.

**After several years of high fiscal deficits and growing public debt, the government took measures to rebalance the budget, but the deficit target for 2018 was missed by a wide margin.** The fiscal reform package included, among others, an increase in 2018 of VAT rates and excise duties, as well as a new debt management strategy. In 2018, central government budget revenues increased substantially, boosted by VAT receipts, income taxes and social security contributions. However, budget expenditure also kept increasing – albeit at a slower



pace – driven by growing capital investment, gross salaries (in spite of planned downsizing), transfers to the public education and health sectors, and costs generated by unfavourable court case rulings against the public authorities. As a result, the general government cash deficit totalled 3.8 % of GDP at the end of 2018, exceeding the full-year deficit target of 2.2 % of GDP. The public debt (including deposits) increased further to 70.8 %

of GDP at the end of 2018, up from 64.2 % a year earlier. The main reasons for this increase were to finance the budget deficit and to increase government deposits to service future financial obligations.

**Inherent limitations in macroeconomic policy compel a stronger commitment to fiscal consolidation.** Montenegro’s use of the euro as legal tender results in the practical absence of monetary policy, leaving fiscal and structural policies as the main macroeconomic toolkit. The strong economic performance and the need to reduce debt-related vulnerabilities called for a tighter fiscal stance in 2018 to strengthen macroeconomic resilience. Moreover, several important structural reforms were delayed.

## Functioning of product markets

### *Business environment*

**The regulatory burden represents a major barrier for improving the business environment.** In September 2017, the government adopted a law on administrative procedure and developed an internet portal (eRegulations.org) to increase the transparency of administrative procedures and facilitate business interaction with public services. Both market entry and exit procedures have been improved. Montenegro performs well at regional level in terms of the time and cost to resolve insolvency. In 2017, 90% of bankruptcy cases were solved within six months. However, other obstacles persist, like delays in the issuing of construction permits. Important legislative reforms, like the Law on spatial planning and construction of buildings, adopted in October 2017, are expected to improve the issuing of construction permits and the regulation of existing illegal constructions. However, implementation of the law is delayed by a number of factors, including the shortage of municipal architects to perform inspections, resulting in delays in processing some of the 50,000 requests to regularise informal constructions. Moreover, the cost of construction permits remains high and the time taken to issue the permits has increased since the new law came into force.

**Businesses are resorting more often to out-of-court dispute resolution mechanisms.** In the first half of 2018, over 500 cases were referred for mediation, an increase compared to 437 cases in 2017. The bailiffs system is a key pillar for enforcement of debt claims. However, the rate of resolved cases fell in the first half of 2018, with 24% of cases solved compared to 34% in 2017. The number of companies and entrepreneurs with frozen bank accounts due to unpaid claims continued to increase in 2018, totalling 17,940 at the end of the year (including some inactive or bankrupt companies). The rising trend points to persistent solvency problems in local companies.

**The fight against the informal economy remains modest.** Employers and investors associations often complain of unfair competition from other businesses' informal practices. The estimated size of the informal economy is 24.5% of GDP<sup>3</sup>. However, state institutions responsible for enforcing the rule of law and competition are often side-lined or suffer from weak capacity. The Special Prosecutor's Office is investigating several cases of corruption involving money laundering, banks, politicians, civil servants and domestic and foreign companies. These cases are important to elucidate the independence and administrative capacity of the judiciary to protect the rule of law and fight against corruption. (*See Chapter 23 – Judiciary and fundamental rights*).

### *State influence on product markets*

**The government's direct interference in the economy remains limited.** Administered prices account for 0.05 % of the harmonised index of consumer prices. The process of alignment with EU requirements is contributing to a gradual increase in market regulators' independence. Although local self-governments' payment arrears remain substantial (at 2 % of GDP at the end of 2018), these are mostly owed to the tax administration rather than to private creditors. Indebted municipalities are subject to a debt restructuring programme supervised by the Ministry of Finance. At 0.6 % of GDP in 2018, the budget allocation for State aid is relatively moderate. The national airline received a significant part of those subsidies, but still owes a significant amount of debt, including to the tax administration, putting the company at risk of bankruptcy. The government provides substantial tax exemptions to develop some sectors of the economy, including tourism, energy, construction

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<sup>3</sup> IPSOS (2014), Informal Employment and the Grey Economy in Montenegro.



and agriculture. However, it lacks an analysis of the impact of these tax exemptions to inform its policy decisions and of the compatibility of such exemptions with State aid rules. (*See also Chapter 8: Competition*).

#### *Privatisation and restructuring*

**Although the number of public companies is relatively low, the return to state-ownership of the energy utility EPCG represented a setback for the privatisation agenda.** Private investors made use of a put option to sell back to the Montenegrin government their 41.7 % stake in EPCG, the largest company in the country. The government increased its stake to 70 % after paying a first instalment in May 2018, while the former strategic investor still holds some 18 %. In October 2018, BMJ Industries took over the majority (70 %) ownership in the New Tobacco Combine, restarting production more than two years after it was privatised. In 2018, a local investor acquired a 26 % stake from Serbia in the ‘Dr Simo Milosevic’ health institute, and applied together with a foreign partner for an additional 56 % stake owned by Montenegro. Concerns are mounting about the state-owned Montenegro Airlines and the railway operator (ZPCG) due to accumulating debt. The government is resorting more often to concession agreements to modernise and develop its assets, and is developing a new legal framework in this area to reinforce the principles of transparency, equal treatment and proportionality. In November 2018, the government granted a 30-year concession for the Bijela shipyard to a consortium formed by a local marina with an international shipyards group. Work is ongoing on the concession of the two international airports and a ski resort, as well as for public forests and agricultural land.

#### Functioning of the financial market

##### *Financial stability*

**Although the situation of the financial sector keeps strengthening, small banks face large overhead costs and low profitability.** Bank balance sheets have recovered significantly in the last six years. The non-performing loan ratio declined to 6.7 % in September 2018 from 17.6 % in 2012. The return on assets and on equity in the banking system stood at 1.5 % and 12.6 %, respectively (they were both in negative territory in 2012), while the overall capital adequacy ratio was 16.5 %, above the regulatory minimum of 10 %. However, large disparities still exist among credit institutions. Out of 15 banks operating in Montenegro, the four largest account for 95 % of total profits. The legal framework of financial supervision has been improved in 2017. There is a critical need to address vulnerabilities in the financial sector and effectively enforce financial supervision. On 4 January 2019, the Central Bank of Montenegro decided to start bankruptcy proceedings against Invest Bank Montenegro and to require that Atlas Banka recapitalise in order to continue operating. These banks account for 1.1 % and 5.8 % respectively of the banking sector’s total assets.

##### *Access to finance*

**While household credit has been rising faster, bank lending to the corporate sector has regained pace since mid-2018.** In the first eleven months of 2018, bank lending to the corporate sector grew by 8.2 % y-o-y. Lending to households kept growing even faster, at 10.9 %. This difference is partly explained by banks’ extremely high collateral requirements for corporate loans as these account for the bulk of impaired loans and are thus seen as riskier. To help with this situation, the state-run Investment and Development Fund (IDF) provides finance to SMEs at reduced interest rates via local banks.

**The size of the non-bank financial sector remains very small.** The stock market’s role in the local economy is marginal in terms of market turnover, while the assets of insurers and micro-financial institutions both represent around 1.5 % of GDP. In 2018, the lending

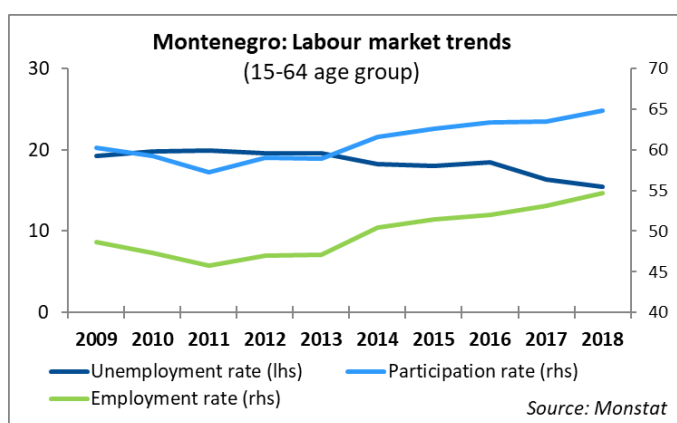
capacity of the Investment and Development Fund accounted for almost 4 % of GDP, compared to an aggregated loan portfolio of commercial banks equivalent to 68 % of GDP.

### Functioning of the labour market

**Stronger economic growth supported better labour market outcomes.** In 2018, the average employment and activity rates in the age group 15-64 increased to 54.7 % and 64.8 % respectively; up from 47.4 % and 58.7 % in 2013. The unemployment rate, according to the Labour Force Survey (LFS) data, fell to 15.5 % on average in 2018, down from 19.6 % in 2013. The average unemployment rate for women was slightly lower (15.3 %) compared to men's (15.7 %). However, women's participation rate (57.2 %) remains significantly lower than that of men (72.3 %). Youth unemployment (i.e. for the 15-24 age group) also declined to 29.4 % in 2018, from 31.7 % a year before. Long-term unemployment also declined. In 2018, the share of unemployed workers who had been looking for a job for more than 12 months was 75.1 %, down from 82.3 % in 2013. The Employment Agency registered similar trends but with higher unemployment rates (i.e. 17.8 % in December 2018). This data discrepancy reflects the high proportion of informality, estimated to affect between 25 % and 33 % of employment.

### **Labour costs contribute to reduced work incentives and low transitions from informal to formal work.**

The tax wedge (at around 40 %) is relatively high, especially for low-wage earners. This may generate disincentives to hire and work, particularly at the lower end of income distribution. In addition, this is coupled with weak employment activation measures and its insufficient coordination with social assistance and opportunities to engage in undeclared work.



This further contributes to unemployment and inactivity. The upcoming labour law reform is also expected to improve labour market flexibility and ease transfer to formal employment, but its adoption is still pending. Local companies hire foreign workers for seasonal jobs, but partly also to address the issue of low mobility of local workers. In 2018, more than 20,000 work permits were issued to foreign workers.

### **3.2 The capacity to cope with competitive pressure and market forces within the Union**

Montenegro has made **some progress** and remains **moderately prepared** in terms of its capacity to cope with competitive pressure and market forces within the EU. The development of infrastructure in a number of areas is gradually setting the preconditions for improved economic competitiveness. However, further efforts are needed to enhance human capital development and to reduce the mismatch between education outcomes and labour market needs. Local companies need to grow and step up efforts to increase international competitiveness.

In order to improve competitiveness and long-term growth, Montenegro should in particular:

- increase the provision of upskilling and reskilling measures;
- develop access to broadband networks and facilitate business use of the information and

communication technologies.

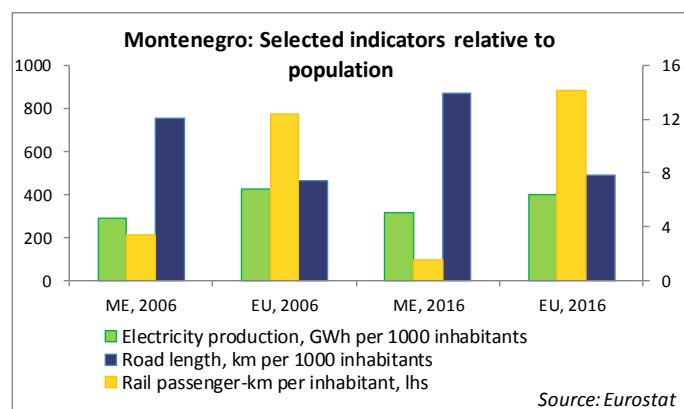
### Education and innovation

**Efforts have been made to further strengthen the national education system.** In test scores of the OECD's 2015 Programme for International Student Assessment (PISA), Montenegrin students underperformed in science and mathematics by an equivalent of 2.5 years against the OECD average, but improved notably in reading (by 19 score points since 2009). The new higher education structure (3+2+3 years) is being strengthened with the reform of university study programmes, and by the implementation of on-the-job learning, now applied to 25% of study programmes (*See Chapter 26: Education and Culture*). However, there is a persistent mismatch between education outcomes and labour market needs. Modernisation of secondary vocational education further advanced in its second year of implementation, with both the number of participating students and employers increasing. However, the effects of the introduction of practical learning in higher and vocational education are yet to be established through comprehensive monitoring.

**Investment in research and development (R&D) is growing.** Investment in R&D amounted to 0.32% of GDP in 2016 (or some 7% of total government spending), still below the target of 0.6% of GDP set for 2020. Montenegro has been gradually improving its participation in numerous international programmes and cooperation projects. National programmes increased funding by resorting to business co-financing. In 2018, the voucher scheme for innovation was extended to all SMEs. However, the application process remains complex and few companies applied. The groundwork is being laid for stronger links between business and the academic community. In addition to the work on the institutional and legal frameworks, progress has continued on two practical initiatives in this area. Firstly, the new centre of excellence for research in Nikšić, the first in a network of four institutions and part of Montenegro's science and technological park, is operating as a business incubator promoting entrepreneurial and innovative culture. Secondly, work is continuing on the innovation and the science and technological park in Podgorica that will implement the smart specialisation strategy to prioritise which areas of investment could generate the strongest growth.

### Physical capital and quality of infrastructure

**Montenegro keeps improving its transport, energy and environmental infrastructures.** Reconstruction and modernisation of the road network has been advancing. However, the construction of the priority section of the Bar-Boljare highway suffered delays and cost overruns, further affecting the country's already narrow fiscal space. Decisions on the construction of the next sections must be based on a careful analysis of the financing scheme and in full compliance with applicable EU standards on public procurement, State aid and environmental impact assessment. Meanwhile, preliminary studies are underway for building the Adriatic-Ionian highway, which would set a second highway parallel to the coast. Several railway track sections and signalling are being upgraded. The draft concession agreement for upgrading the two main airports is well advanced. New energy supply capacities progressed with the launch of a 50-megawatt windmill farm at Mozura and the issuing of several licences to build and operate solar power plants, including a large



250 MW solar plant at Briska Gora. The construction of the electricity transmission corridor towards Italy progressed as planned. Development of environmental infrastructure continues with a number of water distribution and treatment systems and waste management plants under construction.

**Implementation of the strategy for developing the information society is delayed.** Legislative and infrastructure hurdles hamper attainment of the targets for broadband access (i.e. basic broadband access to all the population in 2018, and high speed broadband access of 30 Mbit/s or more in 2020). The low population density and difficult topography increases the costs of broadband deployment, discouraging investments in the less-populated areas. In 2018, 72.2% of households and 99.2% of enterprises (with 10 employees or more) had access to the internet. Moreover, 80% of companies with internet access have a website. However, in 2018, only 8% of SMEs sold online, compared to the EU average of 17%. Overall, the development of IT skills and increased business use of ICT could boost Montenegrin companies' competitiveness and facilitate their access to foreign markets. Online access to real-time cadastral services is in place.

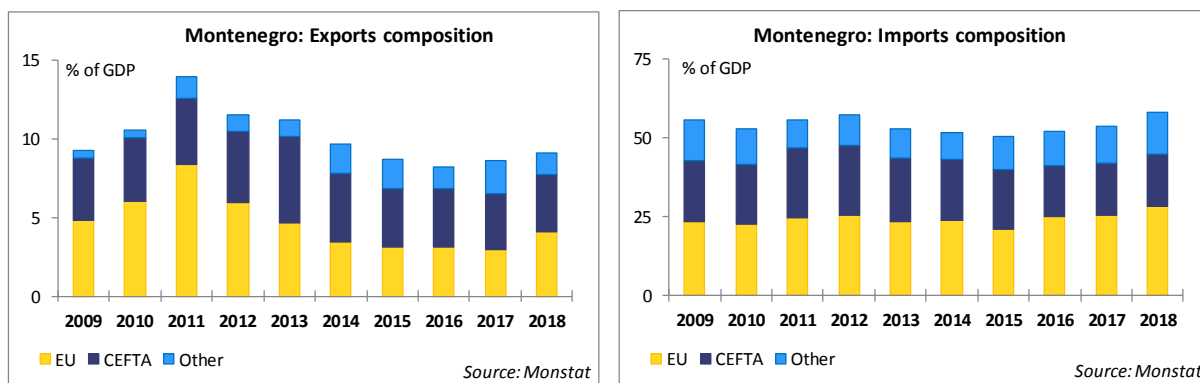
#### Sectoral and enterprise structure

**Services, and tourism and sales in particular, remain the mainstay of the economy, despite some modest rebalancing towards agriculture and manufacturing.** In 2017, services provided 71.8% of total gross value added (GVA) and 75% of total employment, down from a 74.5% contribution five years earlier. Agriculture and manufacturing account for 7.9% and 17.1% of employment, but their contribution to gross value added is more in favour of the former (10.9%) than the latter (11.9%). Construction's share in total GVA has remained relatively stable, at around 5.4% in 2017, accounting for 7.6% of employment.

**Local firms suffer from low levels of competitiveness.** SMEs are the backbone of Montenegro's economy, generating almost 70% of value added and more than three quarters of employment. However, SMEs face numerous challenges. Firms identify access to finance as one of the biggest obstacles to doing business. Other challenges include red tape, inadequate infrastructure and an insufficiently skilled workforce. Several support mechanisms to increase the competitiveness of local SMEs have been developed. These include programmes for cluster development, and a strategy to improve SME innovation and competitiveness. The Investment and Development Fund is also offering new credit lines for competitiveness. However, complex procedures when applying for small grants discourage applicants.

#### Economic integration with the EU and price competitiveness

**Trade integration with the EU has strengthened gradually.** In 2018, trade with the EU accounted for 44.9% of Montenegro's goods exports and 48.3% of its goods imports, showing some increase compared to five years earlier (41.0% and 44.0% in 2013). During the same period in 2018, trade with CEFTA parties accounted for 40.2% of Montenegrin exports and 28.5% of its imports, a significant decline compared to the 2013 levels of 49% and 39%, respectively. The Regional Economic Area framework, to which all Western Balkan economies have committed, offers an opportunity for increasing trade exchanges. However, regional non-tariff barriers, in particular the time taken and procedures needed for border crossing, still appear to hamper stronger intra-regional trade. Financial integration with the EU remains substantial, as the EU accounted for 85.8% of capital in local banks and 45.6% of total FDI inflows during the first nine months of 2018.



**Montenegro's trade exchanges remain heavily tilted towards imports.** Imports of goods and services totalled 64.5% of GDP in 2017, or 1.5 times higher than the value of its exports. This situation reflects several shortcomings, including the fact that only 7% of firms export their goods, and that only one out of three export flows that start in a given year will survive past the first year. The manufacturing base remains concentrated on commodities with low value-added and with a high dependence on imported intermediate goods. Trade openness has slightly declined over time, from 106.7% of GDP in 2011, to 105.6% in 2017.

#### 4. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

**Good neighbourly relations and regional cooperation** form an essential part of Montenegro's process of moving towards the EU. They contribute to stability, reconciliation and a climate conducive to addressing open bilateral issues and the legacies of the past. The country continued to participate actively in regional initiatives such as: the South East Europe Cooperation Process (SEECP), the Regional Cooperation Council, CEFTA, the Western Balkans Six, the Energy Community Treaty, the European Common Aviation Area Agreement, the Central European Initiative (CEI), the Regional Initiative for Migration and Asylum (MARRI), the Coalition for the Commission Tasked with Establishing the Facts about All Victims of War Crimes and Other Serious Human Rights Violations Committed on the Territory of the Former Yugoslavia (RECOM), the Regional School of Public Administration (ReSPA), the *'Brdo-Brijuni process'*, the Adriatic-Ionian Initiative, the Igman Initiative, and the European Union macro-regional Strategies for the Danube Region (EUSDR) and the Adriatic and Ionian Region (EUSAIR). Between June 2018 and May 2019, Montenegro held the chairmanship of EUSAIR.

Montenegro progressed in implementing the multiannual action plan (MAP) for the development of a Regional Economic Area in the Western Balkans, although more attention is needed to secure timely adoption of the incurred measures as well as streamlining regional commitments into national policies, and the Transport Connectivity Reform Measures. Further efforts are needed with regard to energy measures necessary for the creation of a regional electricity market, improved procedures at border crossings, the regional trade agenda and extension of the current regional roaming agreement. The continued implementation of MAP will allow further economic integration within the region, based on EU rules and standards.

Building on the results of previous summits, the July 2018 London Summit brought a renewed commitment to the connectivity agenda as the core element of the Berlin process. Dialogue with the Western Balkans continued in Skopje on the implementation of the Digital Agenda, to which all leaders of the region had committed through a statement of support. More particularly concerning the negotiations on roaming fees, a regional agreement was signed in Belgrade in April 2019 enabling Roam like at Home (RLAH) as of July 2021. Cooperation continued in previously established areas, including implementation of youth mobility

projects supported through the Regional Youth Cooperation Office (RYCO) and its Podgorica branch. In February 2019, the country hosted a regional ministerial on clean energy transition.

In February 2019, Montenegro signed a Memorandum of Understanding with the International Residual Mechanism for Criminal Tribunals. For the handling of domestic war crimes cases, see *chapter 23 — Judiciary and fundamental rights*.

Montenegro has continued to cooperate closely with Bosnia and Herzegovina, Croatia and Serbia under the **Sarajevo Declaration Process**, which aims to find sustainable solutions for some 74 000 people who became refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. The construction, purchase of apartments and distribution of construction material under the Regional Housing Programme (RHP) continued to progress well throughout the country, while needs and interest for housing solutions in different municipalities still remain high. Challenges also remain with regard to ensuring that RHP beneficiaries have sustainable livelihoods and are fully integrated into society.

The unresolved fate of **missing persons** resulting from the conflicts of the 1990s remains a humanitarian concern in the Western Balkans. The number of cases in Montenegro, currently at 57, is low, but all efforts should be made to ensure that missing persons in the country are identified as soon as possible. In November 2018, Bosnia and Herzegovina, Croatia, Kosovo, Montenegro and Serbia signed a framework plan to promote regional cooperation in addressing the issue of missing persons from conflicts on the territory of the former Yugoslavia.

Montenegro remained committed to constructive **bilateral relations** with other enlargement countries and neighbouring EU Member States. Montenegro has signed bilateral conventions on regional cooperation under the Stabilisation and Association Agreement with all partners with an SAA in force. The last such bilateral convention was signed in March 2019 with Kosovo.

Relations with *Albania* continue to be good. The first common session of the two governments was held in Shkodra in July 2018, which resulted in the signature of five bilateral agreements, including on mutual assistance in extraordinary circumstances, on the opening of the Ckila-Zogai joint border crossing for international road and lake transport, and on air policing. Consultations between the two Foreign Ministries were held in March 2018 in Tirana. Montenegro also cooperates with Albania under the Albania-Montenegro-Croatia Trilateral, established in 2017 as part of the Adriatic-Ionian dialogue. One trilateral meeting took place during the reporting period in July 2018. In December 2018, Montenegro allocated funds for technical and expert support for Albania's EU accession process. Montenegro agreed with Albania on the *modus operandi* for the joint border railway station in Tuzi, but its implementation needs to improve with a view to establishing efficient customs clearance for freight transport.

The Ministries of Foreign Affairs of Montenegro and *Bosnia and Herzegovina* held bilateral consultations on co-location and consular affairs in May and July 2018 respectively. A plan on bilateral cooperation between the two Ministries of Defence was signed in May 2018.

Relations between Montenegro and *Kosovo* remained good. The border demarcation agreement came into force in June 2018. An agreement on international transport of passengers and cargo was signed in August 2018.

Relations with *North Macedonia* remained good. An agreement on fighting human trafficking was signed in July 2018. A plan for bilateral defence cooperation for 2018 was signed in April 2018. Consultations between the two Ministries of Foreign Affairs with regard

to NATO cooperation were held in July in Podgorica. In November 2018, the two countries signed an agreement on property relations. In March 2019, Montenegro ratified the protocol on the accession of North Macedonia to NATO.

Relations with **Serbia** remained good. Political consultations between the two Ministries of Foreign Affairs were held in May 2018. Several agreements on road and railway border crossings were signed during the reporting period, among which the agreement on opening the Cemerno-Granice common border crossing in August 2018. There have been no developments on issues related to citizenship rights in the two countries. The demarcation of borders is still pending.

Relations with **Turkey** remained good. In April 2018, the countries signed the annual plan for bilateral cooperation on defence. Consultations between the two Ministries of Foreign Affairs were held in April in Podgorica. The agreement on transportation of passengers and cargo in international road traffic came into force in January 2018. In December 2018, the two countries initialled two revised protocols (on agriculture concessions and trade in services) to their free trade agreement.

Relations remain good overall with **Croatia**, despite some pending bilateral issues. Joint work on finding a solution for the border demarcation between Montenegro and **Croatia** is ongoing. The first consultations between the two Ministries of Defence were held in April 2018.

A plan for bilateral cooperation on defence for 2018 was signed in March 2018 with **Italy**. Consultations between the two Ministries of Foreign Affairs on implementation of the agreement on strategic cooperation were held in October 2018. In November 2018, the competent authorities of the two countries signed a memorandum of understanding on strengthening cooperation in the area of migration.

## **5. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP**

### **5.1 Chapter 1: Free movement of goods**

*The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.*

Montenegro is **moderately prepared** in the area of free movement of goods. **Some progress** was made on EU *acquis* alignment in this area during the reporting period. However, last year's recommendations have not been fully or adequately addressed, and are therefore partly reiterated below.

In the coming year, Montenegro should in particular:

→ ensure that sufficient human and financial resources are allocated to its market surveillance, standardisation and accreditation bodies, and for REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals), in order to ensure the implementation of aligned legislation;

→ comply with the action plan for alignment with the *acquis* in this chapter.

#### General principles

In April 2018, the government adopted the 2018 actions plans for its accreditation and standardisation. On **horizontal legislation**, Montenegro's legal framework for the free movement of goods, including product safety (*see also chapter 28*) is largely aligned to the EU *acquis*. As recommended in last year's report, Montenegro updated its action plan for

alignment with the EU *acquis* in this chapter, in order to address changes in the *acquis* and delays in alignment.

#### Non-harmonised area

In the reporting period, Montenegro adopted 16 secondary legislative acts on metrological requirements for instruments implementation of its action plan for compliance with **Articles 34-36 of the Treaty for the European Union (TFEU)**.

#### Harmonised area: quality infrastructure

During the reporting period, the Institute for **Standardisation** of Montenegro (ISME) adopted a total of 440 Montenegrin standards and related documents, designed to be completely compliant with European and international standards - ISME estimates that 73% of these standards and documents are now compliant with EU standards. In February 2018, ISME signed a cooperation agreement with the Public Procurement Administration of Montenegro. Montenegro had planned to join European Committee for Standardization (CEN) and the European Committee for Electro-technical Standardization (CENELEC) in 2018 (it is already an associate member of both committees), but resource constraints have led to this being postponed to 2019.

During the reporting period, two pieces of secondary legislation were adopted in the field of **metrology**. The Metrology Bureau has gradually strengthened its administrative capacity by employing four additional staff; it currently has 44 staff out of the 52 to which it is officially entitled.

The 2019 general **market surveillance** programme was adopted in 2018. Some 4 771 inspections were carried out during the reporting period, of which 4 086 were in proactive surveillance and 685 in reactive surveillance. In the area of **product safety**, 285 types of hazardous products were identified (44 969 items in total). Of these, 235 products (5 028 items in total) were classified as dangerous products representing a serious risk. Some 171 products (35 152 items in total) were withdrawn from the market, and 19 products (1 570 items) were destroyed; administrative measures were imposed accordingly. Cooperation between the Administration of Inspection Affairs and the Customs Administration continued in the form of increased surveillance of the energy, efficiency and design of electric light bulbs, and of electric coffee machines.

On **accreditation**, the Accreditation Body of Montenegro (ATCG) appointed a new director in February 2018. ATCG currently has 7 permanent staff who undertake managerial and technical activities, which it considers adequate for its current needs, plus 9 registered lead assessors (three are permanent staff), 33 technical assessors (one is permanent staff) and 22 technical experts. There were three new formal accreditations of conformity assessment bodies, while one previously granted accreditation was withdrawn.

#### Harmonised area: sectoral legislation

Under the '**New and Global Approach**' **product legislation**, Montenegro adopted legislation in the reporting period designed to align with the EU *acquis* on appliances burning gaseous fuels. Seven pieces of secondary legislation were also adopted in the reporting period to increase alignment with the EU *acquis* in the area of construction.

On '**Old Approach**' **product legislation**, in the reporting period, seven pieces of secondary legislation were adopted in the reporting period to increase alignment with the EU *acquis* in the area of chemicals and REACH. Legislation was adopted to ensure alignment with the EU *acquis* on labelling of footwear, labelling and marking of textile products, and for aerosol dispensers. On fertilisers, a law amending the Law on plant nutrition products was adopted,



designed to increase alignment with the EU *acquis*. However, the administrative capacity necessary to implement REACH still needs strengthening.

On **drug precursors**, Montenegro has adopted a national list of controlled substances designed to be compliant with the EU *acquis*. It also has mechanisms in place to detect smuggled drug precursors and requires economic operators to report suspicious orders or transactions in line with EU procedures. However, national legislation is only partly aligned with the EU *acquis*. On **good laboratory practices**, national legislation is in place that is designed to be aligned to the EU *acquis*. With regard to **procedural measures**, Montenegro adopted its 2019–2025 strategy and action plan on combating the illicit possession, misuse and trade of small arms and light weapons. Montenegro adopted amended legislation on cultural goods, which is now designed to be aligned with the EU *acquis*.

## 5.2 Chapter 2: Freedom of movement for workers

*Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.*

Montenegro has **some level of preparation** in this area. **Some progress** was made on freedom of movement for workers as concerns the coordination of social security systems.

In the coming year, Montenegro should in particular:

→ establish structures and develop administrative capacity to implement the EU *acquis* in line with the results of the EU support project on social security schemes and the chapter 2 action plan under preparation.

On **access to the labour market**, the new Law on foreigners that governs the entry, stay and work of foreign citizens entered into force in March 2018. As of 2021, foreigners will be required to submit requests for temporary residence and seasonal employment permits through Montenegro’s representations in their country of origin.

On preparations to join **EURES** (the European network of employment services), the Department for EURES and International Employment Mediation within Montenegro’s Employment Agency successfully implemented its recruitment plan by employing one more EURES manager and three advisors in the Podgorica, Bar and Bijelo Polje regional offices.

On the **coordination of social security systems**, the development of bilateral agreements on social insurance continued. The agreement with Romania is still to be ratified by Romania, while negotiations are ongoing to amend the agreements with Serbia and with Bosnia and Herzegovina. Social security institutions’ administrative capacity is yet to be strengthened. The ongoing project “*Towards the EU rules on the coordination of social security schemes*” provides support for developing sufficient administrative capacity for the coordination of social security systems upon EU accession.

The **European Health Insurance Card** is recognised under the Law on health insurance. However its introduction is pending until the ongoing analysis on its impact on the state budget is completed.

## 5.3 Chapter 3: Right of establishment and freedom to provide services

*EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. Postal services are gradually being opened up to competition.*

Montenegro remains **moderately prepared** in this area. **Good progress** was made on alignment with the general framework set out in the EU Services Directive and with the EU *acquis* on mutual recognition of professional qualifications.

In the coming year, Montenegro should, in particular:

- continue inter-ministerial coordination and adopt implementing rules to fully align with the EU Services Directive;
- prepare a test phase for a future fully operational Point of Single Contact;
- implement the required electronic systems for the electronic company registration.

On the **right of establishment**, no progress was made on full electronic company registration.

On the **freedom to provide cross-border services**, close alignment with the EU Services Directive was achieved. The inter-ministerial coordination for the screening of sectoral legislation has been strengthened. Preparatory activities started for the establishment of a Point of Single Contact. The staff resources of the services department in the Ministry of Economy should increase.

On **postal services**, the legislation is aligned with the EU Postal Services Directive. The postal services market is fully opened to competition. Amendments to the Law on postal services were adopted in July 2018 with the aim of further regulating the financing and sustainability of the universal postal service, in line with the EU *acquis*. The department for postal services within the Ministry of Economy currently employs four staff. The new 2019-2023 postal services strategy and its 2019-2020 action plan were adopted in December 2018.

On the **mutual recognition of professional qualifications**, the Law on the recognition of foreign qualifications for regulated professions was adopted in June 2018. Implementation continued under the national plan to develop qualifications for regulated professions. The list of regulated professions was adopted in November 2018. Montenegro has reached a satisfying level of alignment and partially implements the EU *acquis* in this field.

#### **5.4 Chapter 4: Free movement of capital**

*In the EU, capital and investments must be able to move without restriction and there are common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.*

Montenegro is **moderately prepared** in this area. In line with last year's recommendation, **some progress** was made on the legal framework relating to the fight against money laundering, resulting in an important upgrade in the country's ranking by MONEYVAL, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures. Conditions should be created to preserve the independence of the Financial Intelligence Unit (FIU) in its new form as a service of the police.

In the coming year, Montenegro should still:

- align with the EU *acquis* on capital movements and payments, including on the acquisition of property rights, and on payment systems;
- strengthen the institutional capacity to perform checks on all reporting entities, enhance cooperation between all stakeholders and the quality of reporting, ensure the independence and efficiency of the relevant institutions;

→ take into account potential risks of money laundering linked to investor schemes in the national risk assessment, basing this on the EU anti-money laundering rules, and take the necessary mitigating measures.

On **capital movements and payments**, since 2017 Montenegro's regime features free movement of capital, no limitation to the transfer of property, and no foreign exchange or currency control. However, alignment with the EU *acquis* has not yet been completed. Amendments to the Law on voluntary pension funds, adopted in February 2018, removed provisions that would have resulted in differential treatment of national and EU securities. However, a new draft insurance law and draft amendments to the Law on ownership rights, removing preferential national treatment, are still pending.

As regards the **payment system**, the legislation is largely in place, but further alignment with the EU *acquis* is needed. In addition, a legal package still needs to be adopted on the comparability of fees charged to customers, payment account switching, access to payment accounts with basic features, and interchange fees for card-based payment transactions. The total number of registered payments was reduced from 20 to 19.

Significant improvements were made to the legal framework on the **fight against money laundering and terrorism financing**. To comply with MONEYVAL recommendations, amendments were adopted in summer 2018 to the Law on the prevention of money laundering and terrorism financing, and to the Law on international restrictive measures. Two pieces of secondary legislation for the Law on the prevention of money laundering were adopted, one on indicators for recognising suspicious transactions, and one on risk analysis. MONEYVAL recommendations were also addressed by amendments to the Law on investment funds and to the Law on voluntary pension funds, adopted in January and February 2018 respectively. As a result, in December 2018 MONEYVAL removed Montenegro from the step 2 of the compliance enhancing procedure and placed it under the regular 'follow-up' reporting procedure.

A new strategy for the prevention of terrorism, money laundering and terrorism financing is yet to be adopted. The institutional setting for the prevention of money laundering changed in December 2018, with the adoption of the Decree on the organisation and manner of work of the public administration. The decree transformed the independent Financial Intelligence Unit (FIU) into a service of the police, which, due to the same decree, now has greater autonomy and is separate from the Ministry of Interior. However, discussions are ongoing on administrative details for the new service and the specific degree of autonomy it will have. The ability of the FIU to keep its data confidential and not share it with the police, despite being part of that organisation, is of paramount importance in securing Montenegro's inclusion in international networks for the prevention of money laundering, and for it to have access to international data. In 2018 the FIU sent 215 requests to foreign FIUs and received 43 requests for financial intelligence. This administrative change will also require the recently adopted laws to be amended.

The Central Bank of Montenegro performed 10 checks of banks and 1 check of a payment institution in 2018, as in 2017. Two requests for initiating misdemeanour proceedings against two commercial banks were lodged and one written warning measure was imposed on a bank.

The FIU received 240 suspicious transaction reports from reporting entities, carried out 94 controls of reporting entities and identified 22 suspicious transactions, a slight increase on the previous year. Some 102 notifications were forwarded to other competent authorities.

Risk assessment capacities were strengthened with the FIU's adoption of guidelines on developing risk analysis for preventing money laundering and terrorist financing.

Since January 2019, Montenegro runs an economic citizenship scheme, allowing foreign investors to acquire Montenegrin citizenship for a minimum investment of EUR 365 000 in the local economy. Montenegro should put in place robust monitoring systems linked to this scheme, in particular to counter possible security risks such as money laundering, terrorist financing and infiltration of organised crime. Under new EU anti-money laundering rules, Montenegro should devote particular attention to enhanced customer due diligence in the context of the investors' citizenship programme.

## 5.5 Chapter 5: Public procurement

*EU rules ensure that public sector procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.*

Montenegro remains **moderately prepared** on public procurement, which is an area particularly vulnerable to corruption. **Limited progress** was achieved in 2018, as preparations continued for new laws on concessions and public procurement, aimed at alignment with the 2014 EU Procurement Directives. Institutional changes concerning public procurement administration, introduced at the end of 2018, may have an impact on the country's implementation and enforcement capacity. The previous year's recommendations were partially addressed.

In the coming year, Montenegro should in particular:

- adopt and implement the laws on public-private partnerships and public procurement;
- prepare a detailed and comprehensive plan for the rollout of e-procurement;
- further improve the functioning of the remedies system as well as the administrative capacity and IT infrastructure of the State Commission for the Control of Public Procurement.

### Institutional set-up and legal alignment

Following backsliding on legal alignment in 2017, Montenegro stepped up efforts to adopt new laws, aligned to a large degree with the 2014 Procurement Directives. The amended Public Procurement Law and a new Public-Private Partnership Law (aimed at alignment with the EU Concessions Directive) have been prepared and are expected to be adopted by mid-year of 2019. In this context, all legal and financial instruments used in the area of public procurement and concessions, including inter-governmental agreements concluded with third countries for the implementation of joint projects, should comply with the principles of transparency, competition, equal treatment and non-discrimination. Procurement in the area of defence and security still needs to be fully regulated.

The adoption of a government Decree on the organisation and working methods of the state administration at the end of 2018 resulted in the previously independent Public Procurement Administration being incorporated into the Ministry of Finance's Department for Public Procurement, which has a lead role in developing public procurement policy. The decision may possibly lead to improvements in the administrative capacity and foster implementation of the public procurement laws, but it has been taken without internal analyses and consultations. The internal reorganisation in the Ministry of Finance should be finalised by mid-year, which coincides with the planned adoption of the new legal framework.

### Implementation and enforcement capacity

Montenegro's **public procurement market** corresponded to an estimated 9.1% of GDP in 2018, based on preliminary data, compared to 10% and 11.8% in the previous two years.

**Capacity to manage public procurement processes** continues to improve slowly over time. However, time is needed to internalise recent and upcoming changes in the legislative and institutional framework, which could limit the effectiveness of public procurement processes and slow them down. The high number of contracting authorities is not conducive to efficiency. Centralised purchasing has become more widely used for certain standard procurements, but contract management and ex-post evaluation of procurement processes is still very rare. Lowest price as the only award criterion is still applied in 90% of all procedures. Further efforts are necessary to align procurement planning with the allocated resources.

On **monitoring of contract awards and contract implementation**, the number of inspectors in the Public Procurement Inspectorate increased from four to eight in 2018. This allowed for an increase in the number of controls and inspections by more than 150% in comparison to 2017. The inspection services have now the capacity to monitor some 15% of all contracts awarded. Capacity to monitor contract awards and verify contract implementation needs to be further strengthened.

By October 2018, 582 public procurement officers passed the professional certification and training programme. This figure is still lower than the current number of contracting authorities in the country, which stood at 620 in 2017. Practical workshops for representatives of contracting authorities and bidders, as well as specialist trainings for the police, courts and prosecutors were held in the course of 2018.

A regulatory and institutional framework is in place on **integrity and conflict of interest** mechanisms in public procurement. On **data management systems**, the implementation of an e-procurement system has been receiving EU support since November 2018 in view of further alignment with the EU acquis.

#### Efficient remedies system

The remedies system is based on a review of appeals by the State Commission for the Control of Public Procurement (PPC), an independent administrative body reporting directly to Parliament. Appeals against the PPC decisions can be made to the Administrative Court. The number of appeals in 2018 decreased by almost 40%, mainly as a result of legal and procedural changes introduced in 2017. In 2018, the PPC decided upon 626 cases, including appeals received in 2017. The administrative capacity increased, leading to a reduction of processing times and case backlogs, but further improvements in the processing times are still necessary. Furthermore, the remedies system is still not available for public-private partnerships/concessions procedures. The number of Administrative Court rulings annulling decisions of the PPC is high at 25% of all reviewed complaints, which points to existing weaknesses in the remedies system.

## **5.6 Chapter 6: Company law**

*The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.*

Montenegro has reached a **good level of preparation** on company law. As **limited progress** was made on the 2018 recommendations, they remain valid.

In the coming year, Montenegro should therefore, in particular:

→ adopt the Law on companies, aligned with the EU company law *acquis*;

→ adopt the necessary secondary legislation to align with EU corporate accounting and statutory audit *acquis*.

On **company law**, work continued on the amendments to the Law on companies, aimed at further alignment with the EU *acquis* on a wide range of issues, including cross-border mergers, and shareholder rights; the law however has yet to be adopted. National legislation on company takeovers is in line with main EU *acquis* provisions. Secondary legislation was adopted to further align with the EU *acquis* on transparency requirements for listed companies. Further compliance of Montenegro's corporate governance code with EU corporate governance principles is necessary. The Central Registry of Commercial Entities keeps an electronic database of companies and makes company data publicly available online. Legal and technical preparations are underway to develop online electronic company registration to facilitate the business environment. The database of companies in the business register should be ready to interconnect with EU Member States' business registers in the future.

On **corporate accounting** and **auditing**, national legislation includes provisions aligned with the EU *acquis*, including on company size, special provisions for small companies and public-interest entities, rules and procedures on registering and training of certified auditors, and a system of inspection and penalties. All companies must comply with international financial reporting standards (IFRS), and reduced obligations exist for micro and small companies (balance sheet and profit and loss account only). Statutory audits are performed on the basis of international auditing standards (IAS) and are mandatory for public-interest entities. The staff of the Department for Audit Oversight - the competent authority for statutory audits - was increased; adequate funding must continue to be ensured to enable its proper functioning. New rulebooks on accounting and audit aimed at further EU *acquis* alignment should be adopted.

## 5.7 Chapter 7: Intellectual property law

*The EU has harmonised rules for the legal protection of intellectual property rights (IPR), as well as rules for the legal protection of copyright and related rights. Rules for the legal protection of IPRs cover, for instance, patents and trademarks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, computer programmes and broadcasting.*

Montenegro has a **good level of preparation** on intellectual property law. **Good progress** was made as regards coordination of concerned bodies, joint operations and reporting.

In the coming year, Montenegro should in particular:

- develop and adopt a new national intellectual property strategy;
- align with the EU *acquis* on the collective management of copyright and related rights;
- improve its track record on investigations, prosecutions and judicial follow-up.

On **copyright and neighbouring rights**, collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use still need to be fully reflected in the national legislation. A licence was issued on the collective management of reprographic rights of written works, bringing the number of collective rights management organisations in Montenegro to three. Future collective management of intellectual property rights (IPR) should be aligned with the EU Collective Rights Management Directive.

On **industrial property rights**, there was further progress on integrating IT tools into the public administration. The European Union Intellectual Property Office (EUIPO) search

engines TmView, DesignView and the EUIPO User Satisfaction Survey (USS) have been fully integrated. The World Intellectual Property Office Industrial Property Automation System (IPAS) for trademarks has also been implemented.

On **enforcement**, Montenegro provides quarterly updates of its statistical report and has produced comparative statistics for the period 2014-2017. The track record on criminal investigation and prosecution remains poor and needs to improve. The intellectual property rights coordination team established an interdisciplinary working group, which so far has carried out seven actions to suppress and prevent IPR infringements. The Ministry of Health started to monitor trafficking in counterfeit medical products. Montenegro has formally requested membership of the European Patent Convention and is expected to become the next member of the European Patent Organisation (EPO).

The **staffing** of the Intellectual Property Office (IPO) increased by 11 employees. Staffing of the Market Inspectorate of the Administration for Inspection Affairs was increased by 12 inspectors trained in IPR matters. The IPO enhanced its international cooperation, intensified cooperation with the academic community and traders and took an active role in awareness raising. The Office was incorporated into the Ministry of Economy in December 2018.

## 5.8 Chapter 8: Competition policy

*EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of dominant position, and also include rules on concentrations between companies which would significantly impede competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.*

Montenegro is **moderately prepared** in this area. **Some progress** was registered, in particular by completing the set-up of the independent State aid authority. Montenegro has a good level of preparation as regards alignment with the EU *acquis* on antitrust and mergers. The State aid legislative framework is to a large extent aligned with the EU *acquis*. Further significant efforts are needed in the enforcement of the antitrust, mergers and State aid legislation.

In the coming year, Montenegro should in particular:

- ensure the functioning of the State aid authority, now placed in the Agency for the Protections of Competition, and the effectiveness of its control on State aid at all levels, including the building up of an enforcement record;
- ensure transparency on all State aid decisions;
- improve the track record of the Agency for the Protection of Competition on antitrust and mergers.

The **legislative framework** provides a good level of alignment with the EU *acquis* and the Stabilisation and Association Agreement (SAA). The Law on protection of competition is largely aligned with TFEU Articles 101 on restrictive agreements and 102 on abuses of dominant position. The law also provides for *ex ante* control of mergers above certain turnover thresholds, in line with the principles of the EU Merger Regulation. A good level of implementing legislation is in place. Secondary legislation is largely in line with the relevant EU *acquis* regulations and Commission guidelines.

As regards the **institutional framework**, the Agency for Protection of Competition (APC) is responsible for implementing the Law on the protection of competition. It is an operationally independent authority, whose director is appointed by the government.

The powers of the APC are broadly comparable to those of the European Commission in the area of competition. It may (i) act upon a complaint or a notification (e.g. for mergers) or on its own initiative, request information and carry out on-site investigations; (ii) approve mergers, with or without conditions, or prohibit them; and (iii) comment on draft legislation that may affect competition. The APC's decisions may be appealed before the Administrative Court. A leniency policy for self-reporting cartel members is in place. However, fines can still only be imposed by a decision of misdemeanour courts, not directly by the APC.

On **enforcement capacity**, the APC's staffing level and expertise remain insufficient. On **implementation**, the number of decisions on cartels and abuses of dominant position has stagnated over time, with six in 2014, three in 2015, four in 2016, none in 2017, and two in 2018. No in-depth investigation of a merger has been reported by the APC since 2015, while to date the misdemeanour court has imposed only one fine in 2014 and two in 2017. The APC has so far carried out only two on-site inspections, none of which during the reporting period. The APC issued three opinions on primary legislation. To demonstrate that it is stepping up its enforcement policy, the APC needs to make full use of its enforcement powers, by carrying out more on-site inspections, and further promoting the use of its leniency policy as a means to uncover cartels. The courts' capacity to handle complex competition cases must be significantly strengthened.

#### State aid

The **legislative framework** is to a large extent in line with the EU *acquis* and the SAA as well as with Articles 107 and 108 TFEU. One important piece of the legislative framework is the 2018 Law on State aid control, which sets out the notion of aid as well as procedural State aid rules. However, important parts of the EU *acquis*, such as the Banking Communication, have not yet been aligned with. The rules on the financing of services of general economic interest are largely aligned with the EU State aid *acquis*, however Montenegro needs to demonstrate their proper enforcement.

Amendments to the Law on the protection of competition entered into force in March 2018. They expanded the mandate of the APC to include State aid control, in order to meet the SAA requirement on the operational independence of the State aid authority.

As regards the **institutional framework**, the State Aid Control Commission (SACC) was dismantled in July 2018. In line with the Law on State aid control, the newly established Council of the APC took over its responsibilities. Decisions on State aid can be appealed before the Administrative Court.

The State aid authority has yet to establish a solid track record on enforcement. The **enforcement capacity** of the former SACC and the current APC Council remains significantly insufficient. The SACC was assisted by the Ministry of Finance's State Aid Control Unit, which continued to have a staff of seven. The State Aid Control Unit was transferred to the APC in January 2019.

On **implementation**, the number of decisions adopted by the SACC decreased from 31 in 2015 to 19 in 2016 and 13 in 2017 before rising to 22 in 2018 (with only two negative decisions taken in 2015). The SACC received no complaint between 2013 and 2018, which could indicate a low awareness of State aid rules among stakeholders. There is continued evidence that some aid measures granted at central or local level (e.g. through VAT exemptions or debt relief), in particular to large companies, were not notified or properly investigated by the SACC/APC. One example is Montenegro Airlines, where further State support was granted, including in the reporting period, to keep the airline operational. This happened despite the "one time last time" principle, as the airline's 2012 restructuring plan



has only been partially implemented. In the future, the State aid authority should also further monitor the implementation of State aid rules in large projects undertaken in cooperation with third countries. It should thus have access to all necessary information to provide opinions and take binding decisions. Awareness of State aid rules among aid grantors is still insufficient and advocacy must be stepped up considerably.

### Liberalisation

The Law on the protection of competition and the Law on State aid control apply to public undertakings and undertakings with special or exclusive rights. This does not include cases where applying the laws would obstruct the performance of the particular tasks of services of general economic interest assigned to such undertakings, in line with Article 106 TFEU and with the SAA. There are no monopolies of a commercial character as provided for in Article 37 TFEU.

## **5.9 Chapter 9: Financial services**

*EU rules aim to ensure fair competition between and the stability of financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.*

Montenegro is **moderately prepared** in the area of financial services. **Some progress** was made on legal alignment and in addressing the high level of non-performing loans, as recommended last year.

In the coming year, Montenegro should in particular:

→ further advance its alignment *with the EU acquis* through the adoption of legislation on deposit protection and the reorganisation and winding-up of credit institutions.

On **banks and financial conglomerates**, the legislation is partially aligned with the EU *acquis* and based on Basel II rules. Work has continued on further legislative alignment on capital requirements and bank recovery and resolution. In May 2018, the Law on voluntary financial restructuring of debts to financial institutions was amended and extended for another calendar year to facilitate further the resolution of non-performing loans.

The Central Bank of Montenegro adopted the macro-prudential policy framework in June 2018, which also provides guidelines in case of systemic risks to the financial stability in the country, further extending the supervisory tasks of the central bank. Secondary legislation for the 2017 Law on financial leasing, factoring, purchase of receivables, micro-lending and guarantee operations was also adopted to further regulate the sector.

The non-performing loan ratio declined to 6.7% in September 2018, although large disparities still exist between bigger and smaller financial institutions. In December 2018, the central bank introduced interim administration in two small banks. In January 2019, based on the reports of interim administration and current banking legislation, the central bank introduced bankruptcy proceedings in one of them (Invest Bank) and at the beginning of April 2019 in the other (Atlas Bank).

Montenegro's rules on **insurance and occupational pensions** are partially aligned with those of the EU and are primarily based on Solvency I rules. Work on further alignment with the EU *acquis* continues. The Insurance Supervision Agency adopted secondary legislation based on the 2016 Law on insurance, including on depositing and investing technical reserve funds of the insurance company. Amendments have been prepared to the Law on compulsory traffic insurance in order to align it with the EU rules.

On **financial market infrastructure, securities markets and investment services**, the Securities and Exchange Commission has been transformed in the Capital Market Authority following the adoption of the Law on capital markets in December 2017. The Capital Market Authority adopted extensive secondary legislation related to the Law on capital markets and to the Law on investment funds, which provide for partial alignment with the EU *acquis* on rules concerning markets in financial instruments, securities, investment funds, prospectuses and capital markets.

## 5.10 Chapter 10: Information society and media

*The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audio-visual services. The rules protect consumers and support universal availability of modern services.*

Montenegro remains **moderately prepared** in the area of information society and media. There was **no progress** during the reporting period and the previous recommendations have not been implemented. A new set of media laws, aimed at strengthening the responsibilities of the regulatory authorities for electronic communication and electronic media is in the consultation phase. The regulatory authorities' capacity and independence will need improvement to implement the new media laws.

In the coming year, Montenegro should in particular:

- create the conditions for the media regulators and public service broadcaster to operate free from undue political interference and in line with professional standards;
- grant the Agency for Electronic Media (AEM) powers to impose a complete set of measures, including warnings, fines, suspensions and revocation of licences ensuring proportionality and effectiveness;
- establish a track record to demonstrate administrative capacity to enforce the EU *acquis* for electronic communications, information society services and audio-visual media services, including as regards regulatory independence.

The **electronic communications and information and communication technologies** sector is regulated by the Law on electronic communications. The Ministry of Economy's General Directorate for Electronic Communications, Postal Services and Radio Spectrum is responsible for this area. Mapping of the national broadband infrastructure continued with a view to reducing broadband deployment costs, as recommended by the Economic Reform Programme (ERP).

The European emergency number 112 has been implemented and is functioning.

**Information society** is under the responsibility of the Ministry for Public Administration. The 2018-2020 action plan implementing information society development strategy was adopted. It is based on the Digital agenda for Europe and the Digital single market strategy and identifies key steps to achieve necessary standards such as accessibility of broadband services, cyber security, digital business, eHealth and e-education. The 2018 action plan for the implementation of the cyber security strategy 2018-2021 was also adopted. A Council for Information Security is in place, in accordance with the EU Network and Information Security Directive (NIS). Legal provisions on electronic identification and electronic signature were further detailed in line with the electronic identification and trust services (eIDAS) Regulation. The e-government portal currently supports 527 electronic services under the competence of 50 institutions, among which 191 services for natural persons, 313 services for legal persons and 23 services for the public administration. Authorities took part

in the preparations of the Regional Roaming Agreement and signed the agreement in April 2019.

On **audio-visual policy**, AEM, the regulatory agency for electronic media continues to exercise its mandate in a professional manner. The Agency is responsible for overseeing the media during elections, although by law this should be done by an ad-hoc parliamentary committee, thus creating an overlapping jurisdiction. During elections, candidates lodging media-related complaints to the broadcasters can appeal against their decisions directly to the AEM, which has to respond within 24 hours. However, AEM lacks the authority to impose appropriate sanctions, as it is limited to issuing either warnings or suspending licences. Related legal provisions and AEM operational capacities should be strengthened. The AEM should be the only body responsible for supervising broadcasters during elections.

A new set of media laws has been drafted, including on electronic media and the national public broadcaster. The Law on public broadcaster is expected to continue to regulate the financing of the public broadcaster *Radio Televizija Crne Gore* (RTCG) through a contract between it and the government. The State currently allocates 0.3% of GDP for RTCG, while additional revenues are generated from marketing activities. The Law lays down a clear distinction between commercial and public funds, with the assessment that the latter make up 90% of the revenues. RTCG's budget for 2019 is expected to further increase due to the projected GDP growth. Stable financial resources need to be ensured, and editorial independence and professional standards restored. Dismissals from the RTCG and AEM councils raised serious concerns about their representativeness, independence and ability to operate without undue influence and political pressure.

## 5.11 Chapter 11: Agriculture and rural development

*The common agricultural policy supports farmers and rural development. This requires strong management and control systems. There are also common EU rules for quality policy and organic farming.*

Montenegro remains **moderately prepared** in the area of agriculture and rural development. **Good progress** continued in particular on the implementation of the Instrument for Pre-accession Assistance for Rural Development programme (IPARD II).

In the coming period, Montenegro should in particular:

- implement the measures entrusted to it under the IPARD II programme and seek to be entrusted with budget implementation tasks for other measures of the programme;
- implement the action plan for EU *acquis* alignment on agriculture and rural development, in particular by further developing the Integrated Administration and Control System (IACS).

On **horizontal issues**, progress remains to be made in bringing direct support measures in line with the EU *acquis* by fully decoupling them from production and linking the payments to cross-compliance. A Land Parcel Identification System (LPIS) has been established and is operational on a pilot basis. Work should continue on its further expansion. Preparatory steps are being taken to establish a decentralised branch for the future paying agency. The development of a Farm Accountancy Data Network (FADN) remains to be completed. Farm advisory services are provided, but these services need to be strengthened.

On **common market organisation**, following the adoption of the Law on the organisation of the market in agricultural products in 2017, Montenegro continued the process of EU *acquis* alignment by adopting several pieces of secondary legislation.

On **rural development**, implementation of IPARD II continued with two successful calls for proposals for the measures ‘*Investments in physical assets of agricultural holdings*’ and ‘*Investments in physical assets concerning processing and marketing of agricultural and fishery products*’. Montenegro strived to be entrusted with the management of two additional measures: ‘*Farm Diversification and Businesses Development*’ and ‘*Technical Assistance*’. To further improve implementation of the IPARD II programme, the IPARD Agency should continue to increase its capacity and complete its staffing.

On **quality policy**, following the adoption of the Law on quality schemes for agriculture and food products in 2017, secondary legislation has been adopted and two products have been protected as geographical indications at national level.

**Organic farming** development remains slow, although the required infrastructure is in place (i.e. the competent authority, an accreditation system for control bodies and a certification system). Montenegro should further explore the business opportunities in this growing sector.

## 5.12 Chapter 12: Food safety, veterinary and phytosanitary policy

*EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with quality of seed, plant protection material, protection against harmful organisms and animal nutrition.*

Montenegro remains **moderately prepared** on this chapter. **Good progress** was made, including on implementing the strategy for transposing and implementing the EU *acquis* and on the upgrading process of food establishments.

In the coming year, Montenegro should in particular:

- implement the strategy for aligning with and implementing the EU *acquis*, especially with regards to food safety controls, and as concerns inspection and control capacity;
- implement the programme for improving raw milk quality and the accompanying plan for handling non-compliant raw milk;
- support the ongoing process of upgrading food establishments.

On **general food safety**, the integral 2018 safeguard measures programme for food and feed safety was adopted and has been implemented since February 2018.

On **veterinary policy**, amendments to the Veterinary Law were adopted in June 2018. The multi-annual programme for the eradication of rabies continued, and the spring and autumn 2018 vaccination campaigns were completed. Since 2012, no cases of rabies have been reported. Vaccination against lumpy skin disease and bluetongue disease continued in 2018. There have been no cases of lumpy skin disease since September 2016 and no reported cases of bluetongue disease since May 2017. The results for rabies, lumpy skin disease and bluetongue disease are important steps towards stopping their spread into the EU and contributing to their eradication. The programme of compulsory measures for animal health protection for 2018 was implemented and the national programme to improve facilities dealing with products or by-products of animal origin was further pursued. Capacity building for veterinary services continued.

On the **placing on the market of food, feed and animal by-products**, the national programme for improving raw milk quality and accompanying plan for handling non-compliant raw milk were adopted in June 2018, creating the preconditions to improve the quality of raw milk according to EU standards. The national programme for the upgrading of food-processing establishments continued. Some 64 establishments producing food of animal origin were compliant with EU regulations, and 13 of them are licensed to export to the EU.

In June 2018, the government adopted a plan for the management of animal by-products not intended for human consumption and started its implementation. The programme for monitoring of undesirable substances in feed was adopted in August 2018 and its implementation has started to align with EU standards in this area.

Secondary legislation on **food safety rules** and on **specific rules for feed** was adopted.

On **phytosanitary policy**, amendments to the Law on plant nutrition products were adopted in June 2018, as were several pieces of secondary legislation in the area of phytosanitary policy. The programme of phytosanitary measures for 2018 was adopted and implemented. The implementation of the national plan for the sustainable use of plant protection products continued, in line with the 2016-2021 action plan. Capacity building for phytosanitary services was further pursued.

On **genetically-modified organisms**, the programme for genetically modified food and feed monitoring was adopted in November 2018 and its implementation has started.

### 5.13 Chapter 13: Fisheries

*The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on markets and aquaculture and support for fisheries and coastal communities.*

Montenegro is at an **early stage/ has some level of preparation** in this area. While **some progress** was made in this area, last year's recommendations have not yet been fully addressed.

In the coming year, Montenegro should, in particular:

- implement its action plan on aligning with, implementing and enforcing the EU *acquis*;
- strengthen administrative, data collection, scientific advice, inspection and control capacities.
- at international level, continue implementing actions agreed under the Ministerial Declaration MedFish4Ever, the Regional plan of action for sustainable small-scale fisheries in the Mediterranean and the Black Sea and the recommendations of the General Fisheries Commission for the Mediterranean (GFCM).

Montenegro continued to implement its action plan on aligning with, implementing and enforcing the EU *acquis*. Administrative capacity in this area was further strengthened through training of the existing staff at in the Directorate General for Fisheries.

On **resource and fleet management**, the annual data collection programme on Montenegrin fisheries was reviewed and its implementation continued using the newly developed register of biological and sampling data within the Fisheries Information System (FIS).

On **inspections and control**, the FIS was significantly improved by developing the following subsystems: a register of stakeholders in fisheries, a vessel register, a licences system, sale notes, electronic log books, catch certificates, and a biological and sampling data register. The Vessel Monitoring System (VMS) was overhauled in order to be fully integrated into the rest of the subsystems. An automatic location and identification system for fishing vessels exceeding 10m length overall was also installed and connected with VMS. An inter-institutional data exchange has been established by connecting FIS and the Maritime Transport Surveillance System with the aim of helping protect fishermen's safety and reducing illegal fishing activities.

Montenegro established a register of **State aid** for the marine fisheries sector in accordance with the action plan for the 2015-2020 fisheries strategy.

There were no substantial developments on **fleet management, structural actions and market policy**. At the **international level** (GFCM), Montenegro has signed the Ministerial Declaration adopting a Regional plan of action for sustainable small-scale fisheries in the Mediterranean and the Black Seas.

#### 5.14 Chapter 14: Transport policy

*The EU has common rules for technical and safety standards, security, social standards, state aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.*

Montenegro is **moderately prepared/has a good level of preparation** in the area of transport policy. There was **some progress** on legislative alignment with the EU *acquis*, but overall there was no progress in completing key outstanding sector reforms and the 2018 recommendations remain valid. In the coming year, Montenegro should in particular:

- ensure the operational independence and appropriate staffing of the railway regulatory body and the railway safety authority;
- lay down the strategic framework for implementing intelligent transport systems (ITS) on its core road, rail and maritime network and to align with the EU ITS Directive;
- achieve full membership of the Paris Memorandum of Understanding (MoU) on Port State Control.

On the **general transport** EU *acquis*, the new transport development strategy and its related action plan are yet to be adopted. There was no further alignment with the EU *acquis* concerning summertime arrangements, public service obligations, passengers' rights, and procedures and criteria for the award of public service contracts in the field of road and rail transport. The administrative capacity of the Ministry of Transport and Maritime Affairs has improved, but there is a need to further increase the number of trained staff working in regulatory functions and to achieve stronger inter-ministerial coordination.

On **road transport**, legislative amendments were adopted in November 2018 to the Law on working hours, mandatory break periods of mobile workers and recording equipment, further aligning with the EU *acquis* on the social conditions of mobile workers. Montenegro is applying digital tachographs, but is not aligned yet with the EU *acquis* on smart tachographs. The new Law on roads is still to be adopted. Implementation of the Law on the transport of dangerous goods is lagging behind and the national body for the control of transport of dangerous goods has not been set up yet. The legislative framework for intelligent transport system is still at an early stage of preparation.

More efforts are needed on aligning with and implementing the social EU *acquis*, as well as aligning with EU legislation and implementing good practices in road safety. The 50% fatality reduction target by 2019 was achieved, but more coordinated action is needed by all responsible institutions, especially for education and awareness-raising among road users. The preparation of the new 2020-2030 road safety strategy should be finalised in 2019. In November 2018, the government adopted the 2019-2022 programme for the reconstruction of state roads, with a EUR 185 million budget. Further efforts are needed on establishing a national system for continuous road crash data collection.

On **rail transport**, a new railway law is yet to be adopted. The former railway directorate has recently become a single administrative body, but is not yet functioning as an independent and

effective railway regulatory and safety authority. The government adopted a EUR 6.8 million rail maintenance programme but multi-annual maintenance contracts have not been finalised yet.

Public transport and compliance with passengers' rights remain a concern. Further efforts are needed to implement related EU legislation effectively and to reduce delays and cancellations of trains. Further secondary legislation for the interoperability of the rail systems was adopted in July 2018. The network statement for 2019 was published, but its content and methods for calculating charges need to be further aligned with the EU *acquis*. Track access to freight terminals needs to be prepared in line with the revised methodology and information on available services and charges need to be included in the network statement of the infrastructure manager.

On **maritime transport**, the ports management authority and the maritime safety affairs authority were merged in a single administrative body. The adoption of several rulebooks provided further alignment with the EU *acquis*, but no further progress was observed on achieving full member status of the Paris MoU on Port State Control. The implementation of the National Maritime Single Window is still lagging behind. Secondary legislation on a single window for formalities is yet to be adopted. The community vessel traffic monitoring and information system (VTMS, phase one) has been successfully operational since 2015 and its upgrade and expansion to inland waterways is planned by the end of 2020.

On **inland waterway transport**, no progress was made on alignment with the relevant EU *acquis*; the Law on merchant shipping is yet to be adopted. Montenegro takes part in in the EU strategy for the Danube region (EUSDR). However, the country is not a signatory of international agreements on internal navigation. Montenegro has a bilateral agreement with neighbouring Albania on the border crossing across Lake Skadar.

On **aviation**, Montenegro has a good level of alignment with the EU *acquis* under the first transitional phase of the European Common Aviation Area (ECAA) and the Single European Sky (SES). However, there are still outstanding issues on economic regulation with the ECAA first transitional phase, which need to be urgently addressed. The Law on legal obligations in air transportation was amended, providing for further alignment with the EU *acquis* on compensation and assistance to passengers in the event of denied boarding and cancellation or long delay of flights. The adoption of several rulebooks in 2018 provided an advanced level of alignment with the EU *acquis* on aviation safety, air navigation services and air traffic management.

Montenegro is applying security standards equivalent to the EU common basic standards on civil aviation security for the purposes of one-stop security with the EU on passengers, baggage, aircraft and cargo.

The government plans to offer 25- or 30-year concessions the country's two main airports in Podgorica and Tivat. The future concessions should comply with the upcoming legislation on public-private partnership and concessions. The national airline company Montenegro Airlines continues to face financial sustainability problems; an option study was conducted in 2018, but no decision on the future of the company was taken yet.

The beginning of 2019 saw the adoption of amendments to the national air transport facilitation programme.

No further progress can be reported on **combined transport**, since the adoption of the new Law on combined freight transport in 2014. Significant efforts are needed to further develop a balanced intermodal transport approach, especially for container transport from the port of Bar.

## 5.15 Chapter 15: Energy

*EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy and nuclear safety and radiation protection.*

Montenegro has reached a **good level of preparation** in this area. **Some progress** was made in the reporting period, especially on further legislative alignment related to renewable energy. The 2018 recommendations remain valid.

In addition to addressing the shortcomings set out below, in the coming year Montenegro should, in particular:

- create or join a functioning day-ahead market and couple with neighbouring markets, including Italy;
- move to market-based support schemes for renewable energy production and streamline the permitting and connection procedures;
- adopt the Law on security of supply of oil products and set up the stockholding body for the mandatory oil stocks.

On **security of supply**, Montenegro has an energy development strategy up to 2030, with a 2016-2020 action plan and a long-term energy balance for 2017-2019. The 2015 action plan on compulsory strategic reserves of oil and petroleum products is yet to be revised. The Law on security of supply of oil products, in preparation since 2016, and the relevant secondary legislation need to be adopted and the central body for strategic oil reserves established. The current level of stocks remains close to zero.

Montenegro has been a member of the European Network of Transmission System Operators in Electricity since its beginning, and CGES, the country's national transmission system operator, was certified in April 2018. An interconnection with Italy is planned to be operational at the end of 2019, and others with Serbia and Bosnia and Herzegovina are also planned.

Despite the signature of a multilateral memorandum of understanding under the Berlin process to establish a day-ahead market and merge it with a neighbouring market, there was no progress on market coupling and on day-ahead market integration. The BELEN power exchange sent to potential partners a request for submission of a final binding bid to establish a strategic partnership.

Concerning the **internal energy market**, the 2015 Energy Law and the 2016 Law on cross-border exchange of electricity and natural gas provide alignment with the Third Energy Package. However, Montenegro does not have a gas market. During 2018, Montenegro achieved further legislative alignment with the EU *acquis* through the adoption of secondary legislation, including a rulebook on the publication of data in electricity markets. Secondary legislation needs to be further adopted in order to promote interconnection projects.

The distribution system operator has been unbundled since 2016. The wholesale and retail electricity markets in Montenegro are formally open for competition, and the market has been open for individual customers since January 2015. A decree on the supply of vulnerable electricity customers was adopted in November 2018, but the supplier of last resort has not yet been selected.

Despite the favourable investment environment, challenges remain over connection of new generation facilities to the system, expropriation procedures and drafting planning documents.



The Energy Regulatory Agency (ERA) is an operationally and financially independent authority with 35 staff, and has been an observer in the Agency for the Cooperation of Energy Regulators (ACER) since January 2018. ERA regulates prices for electricity supplied to small customer and households entitled to universal service based on market prices and prices of grid services. Wholesale electricity market prices are freely formed. ERA's overall independence still requires further improvement, since its statutes are subject to governmental approval. In addition, the possible penalty levels that ERA can apply are significantly below the legally required 10% threshold. The Agency's ability to attract and retain highly qualified staff remains a reason of concern.

The national legislation is aligned with the EU **Hydrocarbons** Licensing Directive; the EU Safety of Offshore Operations Directive is yet to be fully implemented. Concession contracts for production of hydrocarbons were signed in 2016 and 2017 and related investigation works in the submarine area started in November 2018. Further to the adoption in 2017 of the gasification master plan, including the list of priority investment projects, progress was made on preparatory studies for the Ionian-Adriatic gas pipeline.

The **renewable energy** national action plan aims to achieve a target of 33% of energy from renewable sources in gross final energy consumption by 2020. In 2017, 40% of gross final consumption of energy came from renewable sources, largely due to the revision of biomass data. Some secondary legislation was adopted to further align with the EU Renewable Energy Directive, mainly on the mandatory share of biofuel in the transport sector and sustainability criteria for biofuels and bio-liquids. In 2018, regulations were adopted on (i) issuing, transferring and withdrawing guarantees of origin of electricity produced from renewable energy sources and high efficiency cogeneration, and (ii) an incentive fee to foster energy production. Support to renewable energy producers is based on feed-in tariffs. Montenegro is yet to adopt rules for auctions for granting support to renewable energy producers compliant with the 2014-2020 guidelines on State aid for environmental protection and energy.

In December 2018, the Ministry of Economy awarded a contract to design, build, operate, and maintain a solar plant with an installed capacity of 250 MW at Briska Gora (near Ulcinj). The contract went to a consortium of Finland's state energy company, Montenegro's state power utility and the company Sterling and Wilson.

The development of new projects, particularly on hydropower, should be in conformity with the EU *acquis* on concessions and environment and should take into account the impact on areas of high natural interest.

On **energy efficiency**, amendments to the Law on efficient use of energy to ensure further alignment with the EU Energy Efficiency Directive were not adopted. The annual energy efficiency operating plan for public administration institutions was adopted in March 2018. Montenegro submitted its second annual report under the Energy Efficiency Directive in November 2018. Additional efforts are needed to fully align Montenegro's regulatory framework with the Energy Performance of Buildings Directive and with the Labelling Regulation. The envisaged change in status of the Directorate for Energy Efficiency to a department within the Directorate for Energy might reduce the capacity for effective energy efficiency action. Administrative capacity still has to be considerably strengthened, in particular for inspection supervision and local administration. The energy efficiency fund has not been established. Montenegro should also improve statistical data collection and put in place a functional system for calculating energy efficiency indicators and savings as well as monitoring the implementation of the Energy Efficiency Action Plan of 2016.

On **nuclear energy, nuclear safety and radiation protection**, the Law on ratification of joint protocol relating to application of the Vienna and the Paris Convention was adopted in

December 2018. In June 2018, the International Atomic Energy Agency carried out an inspection of nuclear materials in Montenegro.

Montenegro does not have a nuclear industry, research reactor or any other facility producing radioactive materials, and national legislation prohibits the construction of nuclear facilities.

Montenegro is a party to the Convention on nuclear safety as well as the Joint Convention on the safety of spent fuel management and on the safety of radioactive waste management. The country does not envisage using or building nuclear power plants.

Montenegro is implementing the 2017-2021 strategy and action plan for protection from ionising radiation, radiation safety and management of radioactive waste. There is only one central storage facility, which was licensed in 2012, and provides 63 m<sup>2</sup> of storage for radioactive waste. National legislation on ionising radiation protection and basic safety standards is still partly aligned with the EU *acquis*. Full alignment with the EU Directive on the supervision and control of shipments of radioactive waste and spent fuel is pending. The amendments to the Convention on the physical protection of nuclear material were ratified in 2016. Montenegro is implementing the Treaty on the non-proliferation of nuclear weapons and additional protocols.

Montenegro has provided all necessary information in connection with the European Community arrangements for the early exchange of information in the event of a radiological emergency (ECURIE), and made progress towards becoming a fully operational member. Montenegro should also join the European Radiological Data Exchange Platform, which is part of the ECURIE arrangements. In December 2018, the radon protection programme and its 2019-2023 action plan were adopted.

The national regulatory body for radiation and nuclear safety and security for ionising radiation is composed of eight members representing the Ministry of Sustainable Development and Tourism, the Ministry of Interior, the Nature and Environmental Protection Agency and the Administration for Inspection Affairs. Montenegro has currently no intention to participate in the Capital and Advisory Committee of the Euratom Supply Agency. The country is not a member of the European Nuclear Safety Regulators Group.

## 5.16 Chapter 16: Taxation

*EU rules on taxation cover value-added tax and excise duties as well as aspects of corporate taxation. They also deal with cooperation between tax administrations, including the exchange of information to prevent tax evasion.*

Montenegro is **moderately prepared** in the area of taxation. **Some progress** was made in this area. While there was some progress on last year's recommendations, as Montenegro joined the Global Forum on Transparency and Exchange of Information for Tax Purposes, they have not all been fully or adequately addressed, and are therefore partly reiterated below. Therefore, in the coming year, Montenegro should:

- continue to implement the action plan addressing the issues highlighted by the TADAT (tax administration diagnostic assessment tool analysis);
- ensure that by end 2019 it has joined OECD's Inclusive Framework on BEPS (base erosion and profit shifting), and has signed and ratified the OECD Multilateral Convention on mutual administrative assistance in tax matters.

Montenegro is implementing its action plan to address the issues highlighted by the TADAT analysis. Of the 80 activities foreseen in the action plan, 24 have been completed, 52 have

been started or are ongoing, while four activities have not yet been realised or have been postponed.

The Montenegrin tax administration is implementing its annual action plan for suppression of the grey economy; between January and December 2018, it conducted 3 416 tax audits, detected 434 irregularities, and issued fines totalling over EUR 1.15 million. The tax administration also pursued its efforts to increase tax compliance in connection with non-resident seasonal workers. The national tax administration's business strategy has been updated for the period 2019-2022, in accordance with the EU fiscal blueprint.

On **indirect taxation**, the specific part of excise on cigarettes - which had risen to EUR 40/1 000 cigarettes on 1 January 2018 - was lowered by EUR 10/1 000 in July following a significant decrease in tax collection. The excise on unleaded petrol and diesel was kept at EUR 549/1 000 litres and EUR 440/1 000 litres respectively. A new law on VAT (value added tax), designed to ensure further alignment with the EU *acquis* still needs to be adopted, and exemptions without the right to deduct VAT are not yet aligned either. Similarly, fuel for pleasure boats continues to be excise and VAT exempt. On **direct taxation**, legislative changes to the Law on corporate profit tax to ensure greater alignment with several parts of the EU *acquis* still need to be adopted.

On **administrative cooperation and mutual assistance**, Montenegro is yet to align with the *acquis* on administrative cooperation. In April 2018, Montenegro became a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes. By the end of 2019, Montenegro needs to have joined the OECD Inclusive Framework on BEPS, and signed and ratified the OECD Multilateral Convention on mutual administrative assistance in tax matters.

On **operational capacity and computerisation**, there was further progress in improving the tax administration's business processes, including a feasibility study on the introduction of online cash registers. Development of the specifications for the future software solution is ongoing.

The Decree on the organisation and method of work of the state administration, adopted in December 2019, made the tax administration an independent administrative body within the Ministry of Finance. In order to monitor the implementation of the business strategy each year, a (tax) reform plan for 2019 was prepared and a Reform Committee established. A Risk Management Committee was also formed, and three new departments (internal audit, international cooperation and tax police for dealing with tax evasion) will be added to the tax administration.

## 5.17 Chapter 17: Economic and monetary policy

*EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.*

Montenegro remains **moderately prepared** in the area of economic and monetary policy. **Some progress** was achieved through further implementation of an action plan for EU *acquis* alignment on economic and monetary policy; and a medium-term fiscal consolidation strategy, in line with the 2018 report's recommendations.

In the coming year, Montenegro should in particular:

→ continue to implement the action plan for alignment with the EU *acquis*.

Montenegro does not have standard **monetary policy** tools at its disposal, as it uses the euro as legal tender, thus leaving fiscal policy as the main macroeconomic policy instrument. Its present use of the euro, which was decided by the Montenegrin authorities under exceptional circumstances, is fully distinct from membership of the euro area.

Amendments to the Law on the central bank were introduced in October 2017. They included, among others, the EU rules prohibiting the monetary financing of the public sector and prohibiting privileged access by the public sector to financial institutions. However, laws on insurance and on deposit protection still need to be brought in line with the EU rules.

On **economic policy**, further alignment with the EU Directive on requirements for budgetary frameworks is still needed. Montenegro's multiannual budgetary framework requires further upgrades of both its content and reliability. Implementation of the 2017 medium-term fiscal consolidation strategy improved the sustainability of public finances by rising budget revenues. However, further efforts are necessary to contain public expenditure and reduce the level of public debt in order to comply with the fiscal rules. In March 2018, the government adopted the 2018-2020 medium-term debt management strategy establishing measures for expenditure management and debt-related risks. There was some further progress under the strategy implementing the 2010 methodology of the European System of National and Regional Accounts standards (ESA 2010). However, Montenegro's fiscal notifications continue to be incomplete, pending substantial alignment with the EU requirements, in particular as regards excessive deficit procedure data. There is no independent fiscal council in place.

The government submitted its 2019-2021 **Economic Reform Programme** (ERP) on time. The reliability of the ERP fiscal planning has been challenged by two budget adjustments in 2018, rising substantially the central government deficit in comparison to the ERP projections. Further efforts are needed to ensure sufficient capacities for the design and timely implementation of the economic policy measures.

## 5.18 Chapter 18: Statistics

*EU rules require that Member States are able to produce statistics based on professional independence, impartiality, reliability, transparency, and confidentiality. Common rules are provided for the methodology, production and dissemination of statistical information.*

Montenegro is **moderately prepared** in the area of statistics. **Some progress** was made on harmonising the statistical methodology with EU standards and on an increased transmission of data, notably in macroeconomic, business, social, and agricultural statistics. However, significant efforts are still needed to address the 2018 recommendations. In the coming year, Montenegro should in particular:

- considerably strengthen the human and financial resources of the Statistical Office of Montenegro (Monstat) so that it can fulfil its responsibilities, and ensure staff retention;
- make significant progress in aligning its statistics with ESA 2010, including government finance statistics.

On **statistical infrastructure**, Monstat is compliant with the European statistics Code of Practice. It is the main producer and overall coordinator of statistics. The law proclaims the professional independence of Monstat's director and provides good confidentiality protection and an effective mandate for data collection. The government of Montenegro signed a Commitment on Confidence in Statistics in February 2018, setting out its commitment to respecting European statistical standards, including professional independence, access to administrative and register data, and confidentiality protection. The government also

committed to providing human and financial resources to improve the quality of Montenegrin statistics. However, Monstat's financial and administrative capacities remain limited due to inadequate resources and premises: only 103 of 200 available posts are filled, while more staff left than were recruited in the reporting period. The strategy for official statistics for 2019-2023 was adopted.

Monstat established a good basis for effective coordination of the other national authorities producing official statistics and improved its cooperation with administrative data providers thanks to the signature of an additional memorandum of understanding with the Mediterranean University. The main classifications (NACE Rev. 2, ISCO-08, NUTS, CPA, GEONOM and ISCED 2011) are compliant with the EU *acquis*.

Data transmission to Eurostat continued to increase. Progress was achieved on **macroeconomic statistics** and alignment with ESA 2010. Monstat transmits annual (2006-2017) and quarterly (Q1 2010 to Q2 2018) GDP figures using the output and expenditure approach in current and previous year's prices to Eurostat, and has started sending partial data for the annual GDP using the income approach. However, considerable efforts are needed to improve compliance with the ESA 2010 methodology. Monstat does not yet transmit annual or quarterly sector accounts to Eurostat.

Considerable efforts are also needed to develop government finance statistics (GFS) and financial accounts; in the reporting period, three new staff were allocated to the Ministry of Finance to work on GFS. Excessive deficit procedure (EDP) tables are sent to Eurostat since October 2014, but important tables are lacking. The central bank compiles statistics on the balance of payments, foreign direct investment, and statistics on trade in services, which are partially aligned with the EU *acquis*. The harmonised index of consumer prices (HICP) and the purchasing power parities (PPP) framework are both largely aligned.

In **business statistics**, Monstat continued sending a number of structural business statistics (SBS) variables to Eurostat. Short-term statistics improved over the reporting period, but foreign affiliates' statistics have not been sent to Eurostat. The Business Register is largely compliant and the PRODCOM list is fully compliant with EU standards. In 2018, Monstat sent, for the first time, data on international trade in goods by invoicing currency (TIC) to Eurostat. The sending of transport statistics to Eurostat increased with the transition to detailed reporting of railway and maritime transport statistics and road freight - rail and air transport statistics are fully aligned. Research and development data is partially in line with the EU *acquis*. Monstat started compiling innovation statistics on enterprises and sent its first data sets for the period 2014-2016 to Eurostat. Tourism statistics are largely compliant with EU standards.

In **social statistics**, preparations continued on applying a register-based census methodology for the 2021 population and housing census making maximum use of registers kept by other public bodies. To apply this method, Monstat needs to obtain access to all identifiers of the population register and an address register has to be established. The survey of income and living conditions (EU-SILC), - the Labour Force Survey (LFS) and crime statistics are largely compliant, while social protection data (ESSPROS) transmitted to Eurostat are under validation. Eurostat received data on migration and demographic statistics from the demographic balance and the unified demographic data collections, but data availability should be further improved with data on migrant populations, acquisition of citizenship, and on emigration of non-nationals. Furthermore, Monstat has transmitted monthly and quarterly asylum data to Eurostat since January 2018 and is encouraged to start transmitting the EIL (enforcement of immigration legislation) statistics and residence permit data.

Progress continued in **agricultural statistics**, with the transmission of organic production data and the data collection on pesticides sales being sent to Eurostat for the first time. Annual crop statistics (ACS) and animal production statistics (APS) are highly compliant with EU standards, and Eurostat received the 2016 Farm Structure Survey (FSS) data and methodological report. Monstat provided some evidence of good work on agricultural accounts and prices, and is encouraged to send comprehensive data sets to Eurostat. In December 2018, it started to send aquaculture data.

**Energy** statistics are highly compliant with EU standards. In **environmental** statistics, waste statistics are compliant with Eurostat requirements, but statistics on environmental accounts have not yet been transmitted to Eurostat.

### 5.19 Chapter 19: Social Policy and employment

*EU rules in the social field include minimum legal labour standards, equality, health and safety at work and non-discrimination as well as promote social dialogue.*

Montenegro has **some level of preparation** on social policy and employment. **Limited progress** was made during the reporting period in line with recommendations from last year. Alignment with the EU *acquis* is ongoing. However, the discrepancy between the education system and labour market needs, the high proportion of inactive population and insufficient social dialogue remain of concern.

In the coming year, Montenegro should, in particular:

- finalise the draft labour law and shape more responsive employment policies based on a fuller analysis of labour market performance while also using a gender assessment of policies;
- continue to fight the grey economy and introduce better quality employment measures aimed at young people, women, minorities and other job seekers;
- reinforce cooperation with social partners and other non-state actors operating in the sector.

On **labour law**, alignment with EU legislation has progressed but the adoption of the labour law is still pending. The labour law reform is intended to improve labour market functioning and to transpose relevant EU social legislation. This includes alignment to a number of directives, including non-discrimination, protection of young people at work, working time, collective redundancies, and part-time, fixed-term and temporary agency work. In addition, it aims for alignment with EU legislation on protection of employees in case of insolvency, obligation to inform employees of employment contract conditions, and transfer of undertakings. While the draft law has been prepared in the working group, which included social partners, the consultation process, particularly with workers and employers needs to continue throughout its finalisation. Considering its relevance both as a structural reform measure and one of the key pieces of legislation to align with the EU *acquis* in this area, the monitoring of its effects – once adopted – will be essential. There is not yet a monitoring mechanism in place.

Amendments to the Law on **health and safety at work** were adopted in June 2018 along with relevant secondary legislation. Limited changes were noted in terms of the capacities of the authorities to inspect and monitor the Law's implementation. As part of the amendments to the Law the obligation for employers to nominate a coordinator to manage occupational safety and health issues was introduced. The National Institute for Occupational Health is still not performing its required role to ensure the health and safety of workers. An occupational safety

and health fund was meant to have been set up under the 2010-14 strategy on the improvement of health of employees and safety at work (now replaced by the 2016-2020 strategy) and its action plan but this has not yet been established.

Some progress was made on **social dialogue**, with the adoption of the revised Law on Social Council in June and the Law on representation of trade unions in February 2018. More efforts are needed to enhance the position and role of both the Social Council and trade unions. Discrimination against trade union activities and leaders jeopardises social dialogue and needs to be systematically addressed.

On **employment policy**, Montenegro is implementing its national strategy for employment and human resources development, but since no outcome data is systematically collected via monitoring and evaluation activities, performance is difficult to assess. Based on the Labour Force Survey for the third quarter of 2018, the unemployment rate decreased to 14.1% (14.7 for men, 13.4 for women). However, the activity rate although improving is still low at 57.6% and regional disparities are considerable, with unemployment disproportionately high in the north of the country, particularly affecting women and young people. Just over 50% of the unemployed total are women while the Roma and Egyptian community makes up almost a 2% share in the total registered unemployed. There is also room to further improve activation of social benefit recipients and enhance work incentives, including measures related to increase vocational education focused on Roma and Egyptian. The effective use of the Fund for the Professional Rehabilitation and Employment of Persons with Disabilities in its role to foster the employment of people with disabilities is still not assured. The working group in charge of proposing amendments to the corresponding law has failed so far to ensure the genuine involvement of disability organisations and needs to do more in this regard. On the informal economy, further reinforcement of labour inspections is needed, as well as reliable and regular statistics and diagnostic tools. As the national commission to fight the informal economy was established in 2018, the outcomes of its works are yet to be seen. It will be essential to establish a follow up system to review its function and impact. The Employment Agency of Montenegro is participating in a pilot bench learning exercise based on the experience developed by the European Public Employment Services Network (PES Network.) The IT system of the Employment Agency is still to be updated.

As regards preparations for the **European Social Fund (ESF)**, implementation of the second operational programme for human resources development (2015-2017) was delayed, but is now starting to undertake activities. The programme will focus on education, research, employment and social policies to foster inclusive growth in Montenegro.

On **social inclusion and protection**, Montenegro has adopted and is implementing: (i) the 2018 action plans for the 2017-2021 strategy for the prevention and protection of children against violence; and (ii) the 2018-2022 strategies for the development of a system for social and child protection and of a system for protection of the elderly. Implementation of the new amendments to the Law on social and child protection that withdrew the benefits for mothers of three or more children have continued. Around 3 000 women whom had been excluded from the labour market, are entitled for compensation, equal to their previous wages, for up to five years. The Employment Agency is piloting targeted active labour market measures for former beneficiaries in order to enhance incentives to work. The (SILC) Statistics on Income and Living Conditions survey published in December 2018 showed high risks of poverty and social exclusion with the rate of 34.6% reported in 2016. Poverty is particularly high for children, the low skilled and those living in the North and rural areas. The Institute for Social and Child Protection still lacks adequate resources and capacity to efficiently supervise and secure service quality. The continuity and range of social services, especially at local level is

still inadequate. Implementation of the second phase of the social card/social welfare information system continued, and is nearing completion.

On **de-institutionalisation**, the previous reduction in the total number of children living in institutions (this includes the absence of any child younger than three) has been sustained. Alternative care services need to be both reinforced and expanded in order to complete the de-institutionalisation reform.

On **non-discrimination in employment and social policy**, Montenegro adopted both the 2018 action plan to implementing the Roma and Egyptians social inclusion strategy and the 2018 action plan to implement the strategy on improving the quality of life of the LGBTI population, yet no official reports on implementation are available. The Ministry for Human and Minority Rights has put focus on increasing local authorities cooperation and awareness with regard to combating different types of discrimination and there has been a rise in the number of investigations. However, there is not yet enough evidence of concrete results on implementation. More efforts are needed to establish sustainable and effective services which are available to the Roma community. Treatment of LGBTI persons by social services and the authorities remains inadequate. A pride march was again organised successfully in November 2018 by civil society activists and supported by some local and state institutions. Civil society is not sufficiently involved in relevant policy discussions.

Even though further measures have been put in place to secure a higher level of **equality between women and men in employment and social policies**, women still face various forms of discrimination, especially over permanent employment contracts and access to paid maternity leave. Pro-women employment initiatives and projects have gained importance and visibility during the reporting period but results are only expected during the next years. Women continue to face barriers to joining the workforce and while the wage gap is higher in the private sector women in the public sector are more educated and have better jobs than men, but earn less due to gender discrimination. Montenegro should introduce active labour market measures for women and at the same time make greater efforts to combat discriminatory practices. Financial and non-financial support to single parents is insufficient despite an increased number of facilities.

**5.20 Chapter 20: Enterprise and industrial policy**

*EU industrial policy enhances competitiveness, facilitates structural change and encourages an enterprise-friendly environment that stimulates small and medium sized enterprises.*

Montenegro is **moderately prepared** on enterprise and industrial policy. **Some progress** was made on implementing the industrial policy and strengthening Small and Medium-sized Enterprise (SME) support, as recommended last year. There is a need to further build up administrative capacity and enhance inter-ministerial coordination.

In the coming year, Montenegro should in particular:

- continue to improve the implementation of industrial policy, in cooperation with stakeholders;
- adopt a revised industrial policy and action plan after finalising a mid-term review.

On **enterprise and industrial policy principles**, a mid-term review of the industrial policy 2016-2020 has been completed in March 2019 and the revision of the industrial policy is due to take place by the end of second quarter of 2019.

The 2018-2022 strategy for development of micro, small and medium-sized enterprises (MSMEs) was adopted in July 2018, followed by the adoption of the 2019 action plan in



December 2018. The strategy has five objectives related to: (i) improving the business climate; (ii) access to sources of finance; (iii) entrepreneurship skills and competences; (iv) strengthening competitiveness of MSMEs; and (v) promotion of entrepreneurship among women and young people. The 2019 action plan for development of women's entrepreneurship was also adopted in December 2018.

The draft Small Business Act assessment for 2019 indicates that Montenegro has made progress on implementing the Small Business Act since the last assessment in 2016. Most notably, entrepreneurial learning has been systematically integrated into the education system, resolving insolvency has become faster and cheaper, and the legal framework regulating non-bank financial instruments has been strengthened.

Efforts should be made to improve the human resources and financial capacity of the newly created Directorate of Investments, Development of SMEs and Management of EU funds in the Ministry of Economy. The implementation rate of national budget funding leaves room for improvement, in particular for the competitiveness objective and in terms of investment incentives. The legal and regulatory framework would benefit from a coordinated approach to the provision of SME support measures, which are currently spread across different public institutions. Another action that should be prioritised is the implementation of a single and transparent system for business licensing and permits to streamline the existing lengthy and expensive procedure.

In March 2019 a Law on administrative charges was adopted. This constitutes a welcome first step in reducing different local taxes, fees and parafiscal burdens on businesses and investors. Out of overall 659 local administrative charges applied in Montenegro, 72 should be reduced and 49 abolished, leading to possible business savings of over 2 million EUR annually.

Furthermore, national legislation aimed at further alignment with the EU *acquis* on combating late payments has been adopted.

On **enterprise and industrial policy instruments**, 10 contracts totalling 108,000 EUR were signed under the 2017-2020 cluster development programme. The Investment and Development Fund of Montenegro (IDF) has approved loans and factoring arrangements worth 209 million EUR, approximately 20% more than in 2017, securing or maintaining some 7,300 jobs. In addition, the IDF submitted an application for participation in the loan guarantee facility of the EU programme for the Competitiveness of Enterprises and SMEs (COSME), which was approved. The contract is expected to be signed in the first half of 2019. Effective working structures still need to be created to help Montenegrin applicants prepare their applications for EU funding under the programme.

## 5.21 Chapter 21: Trans-European networks

*The EU promotes trans-European networks in transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.*

Montenegro is **moderately prepared** in this area. **Some progress** was made in the reporting period, notably on implementation of connectivity reform measures. The 2018 recommendations remain predominantly valid.

In addition to addressing the shortcomings set out below, in the coming year, Montenegro should in particular:

→ adopt and start implementing the new transport development strategy with its annual action plans;

→ strengthen the administrative capacities for trans-European networks in transport,

telecommunications and energy;

→ continue harmonising the legal framework with the TEN-T and TEN-E Regulations.

On **transport networks**, Montenegro is part of the Transport Community Treaty. It continues to participate in the Western Balkans 6 Connectivity Agenda, under whose aegis it has made some progress on implementing the connectivity reform measures, particularly over the border crossing agreement with Albania for the Tuzi rail border crossing point. The new 2019-2035 transport development strategy is planned to be adopted in 2019.

At the second Ministerial Council meeting of the Transport Community in December 2018, Montenegro and the five other Western Balkan partners endorsed a declaration to develop a regional rail strategy. This declaration followed the two declarations on road safety and border crossing facilitation endorsed in the margins of the TEN-T days in April 2018. The aim is now to develop regional projects to eliminate road safety blackspots on the trans-European transport network (TEN-T) and to improve infrastructure and procedures at border-crossing points.

On infrastructure development in the context of the TEN-T, progress continued on building the first priority section between Smokovac and Matesevo of the Bar-Boljare highway, which is part of the indicative extension of the Orient/East-Med corridor in the Western Balkans. However, delays and cost overruns are to be expected before the completion of this complex project, which is financed through a Chinese loan. In March 2018, Montenegro signed a memorandum of understanding with a Chinese contractor to build further sections of the highway on a public-private partnership basis. In 2019, a comprehensive cost benefit analysis for the entire highway will set recommended standards and means of financing for the remaining sections.

Montenegro must ensure that its transport network projects are implemented in line with the TEN-T regulatory framework, and that future infrastructure investments are implemented in full compliance with applicable EU standards on public procurement, State aid and environmental impact assessment, while also taking due account of Montenegro's fiscal space. This is particularly required for projects whose technical preparations receive significant EU funding, as is the case for the Bar- Boljare highway, which is supported through the Western Balkans Investment Framework. Projects should be channelled through a single project pipeline, confirming the strategic orientation towards the trans-European networks.

Upgrading of the Bar-Vrbnica railway continued with EU funding. The high number of studies and rehabilitation works simultaneously undertaken along the railway corridor requires significant coordination. Progress also continued on studies for the design of the Adriatic-Ionian highway.

The **institutional framework** and administrative capacity in the Ministry of Transport and Maritime Affairs were boosted with the hiring of two additional staff to deal with the Connecting Europe Facility (CEF) and TEN-T. A state-owned company, currently operating with adequate capacities, is responsible for the development of highways and road infrastructure. In the rail sector, the administrative and technical capacity of the four state-owned companies remained limited.

On **energy networks**, some progress was made on the connectivity reform measures for energy, such as the certification in April 2018 of the electricity transmission system operator.

Progress continued on interconnecting the electricity systems of Serbia, Bosnia and Herzegovina, Italy and Montenegro, which is part of the Projects of Energy Community

Interest (PECI) list. In this context, the Montenegro and Italy undersea cable interconnector is planned to be operational at the end of 2019. In May 2018, work began (with EU funding) on drafting the concept design for the Ionian-Adriatic pipeline's routes through Montenegro and Albania. The pipeline features on the list of projects of mutual interest.

The Ministry of Economy's energy directorate is in charge of trans-European energy networks (TEN-E). One fully dedicated post is dealing directly with TEN-E and should be filled in early 2019.

Montenegro is yet to fully align its legislation with the TEN-T and TEN-E EU *acquis*. As regards the trans-European communication networks, the Law on electronic communications is aligned with the EU *acquis*.

## 5.22 Chapter 22: Regional policy and coordination of structural instruments

*Regional policy is the EU's main investment policy for sustainable and inclusive economic growth. Member States bear responsibility for implementation which requires adequate administrative capacity and sound financial management of projects' design and execution.*

Montenegro is **moderately prepared** in this area. **Limited progress** was made in the reporting period. Planning procurement capacities still need to be strengthened, and project preparation and strategic planning capabilities need to improve as underlined last year.

In the coming year, Montenegro should in particular:

- make further efforts to enhance the implementation of EU pre-accession funding under indirect management, in particular by developing a management information system;
- continue implementing the action plan for meeting requirements deriving from EU cohesion policy;
- take measures to put a far greater emphasis on cross-sector strategic planning and preparation.

On the **legislative framework**, Montenegro continued implementing its work focused on the action plan for meeting the requirements of EU cohesion policy and *acquis* alignment. The transposition of key parts of the EU *acquis* under other chapters is a prerequisite for proper implementation of EU structural and investment funds.

On the **institutional framework**, changes have been made to the management of EU pre-accession assistance (IPA). The national IPA coordinator (NIPAC) was moved to the Office for European Integration, itself placed within the Office of the Prime Minister, with the NIPAC formally becoming deputy chief negotiator. In addition, the Directorate of Public Works was turned into the Public Works Administration and its decision making powers were increased.

On **administrative capacity**, some reinforced resources and staffing helped improve procurement and contracting efficiency but considerable efforts are still needed to maintain and enhance implementation capacity. Staff retention remains an issue, and a recruitment and retention plan is now in place, although it has not yet had an impact.

On **programming**, the country continued its sectoral approach under IPA. A single project pipeline exists and is updated on a regular basis.

Regarding **monitoring and evaluation**, monitoring committees under indirect management continue to meet regularly. An interim evaluation for the regional development operational programme was completed, as well as an *ex-post* evaluation for the human resources development operational programme. The pace of implementation of the programmes under

indirect management was slow. No progress was made in establishing a management information system.

The **financial management, control and audit**, the framework is in place. On-going efforts are needed to maintain the State Audit Authority's programme of audit and control.

## 5.25 Chapter 25: Science and Research

*The EU provides significant support to research and innovation. All Member States can benefit from the EU's research programmes, especially where there is scientific excellence and solid investment in research.*

Montenegro demonstrates a **good level of preparation** in this sector. While **some progress** was made - notably on the 2018 recommendation to advance the development of a smart specialisation strategy, but also in the field of innovation – this was offset by Montenegro's lower than expected performance in the EU Horizon 2020 programme.

In the coming year, Montenegro should in particular:

→ finalise and start to implement the Smart Specialisation Strategy;

→ increase participation in Horizon 2020 and intensify investment in research.

On **research and innovation policy**, implementation of the strategies on scientific research and innovation activities continued. The Ministry of Science 2018 budget was increased by 60% and national programmes grew in funding and number, most of them based on the principle of business co-financing. Gross domestic expenditure on research and development (R&D) stood at 0.32 % in 2016, and there is no data yet to substantiate an increase in private sector funding. Montenegro should, as planned, participate in the European Innovation Scoreboard, following a pilot survey by Monstat. A programme for supporting innovative start-ups was adopted in June 2018, supported by the Horizon 2020 Policy Support Facility. The number of full-time equivalent researchers employed in R&D remains low (624 in 2016). A new programme, adopted in June, to 'strengthen human resources and research capacities in scientific research institutions' aims to achieve more efficient employment in the academic and business world and to aid integration into the Regional Economic Area. The University of Montenegro is preparing a human resources strategy for researchers (HRS4R), with accompanying action plan, under the Euraxess initiative.

Following extensive preparation, adoption of the Smart Specialisation Strategy (S3) is expected by mid-2019; the related S3 guidelines (2018-2024) were adopted in December 2018.

A Centre of Excellence for Research and Innovation was established at the University of Montenegro in May 2018, aimed at fostering cooperation between academia and the private sector. Early steps have been taken to establish an office for technology transfer within the Centre.

Montenegro's participation in the **framework programme H2020** was suboptimal despite substantial efforts in support and preparatory measures. Latest figures show only a small number of new projects (with limited funding) granted so far for the first half of 2018.

Montenegro has maintained active engagement with international bodies such as EUREKA, COST, CERN, IAEA and other relevant institutions. In October 2018, Montenegro became a member of the European Social Survey of the European Research Infrastructure Consortium (ESS-ERIC), and research under the ninth round of the European Social Survey is being implemented in the country for the first time.

## 5.26 Chapter 26: Education and culture

*The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policy through the open method of coordination. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.*

There is a **good level of preparation** in this area. In line with last year's recommendations, **some progress** was achieved on learning outcomes, inclusion, and early steps were taken towards improving governance in the education sector. In general, challenges remain to drive reforms further, including limited institutional capacity to review and monitor, as well as to develop results-based and feasible medium-term plans.

In the coming year, Montenegro should in particular:

- optimise participation rates in early childhood education and minimise drop-outs, especially from vulnerable groups;
- improve the quality of education through continuous reform of primary and secondary education, teaching basic and transversal skills, focused on learning outcomes;
- improve sector governance and develop adequate monitoring and quality assurance mechanisms for vocational education and training.

On **education and training**, implementation of education strategies continued, and the annual budget for education remained relatively stable at 3.9% of GDP. Participation in early childhood education and care continues to rise slowly, and more focus was put on expanding coverage in the north of the country; however, the overall rate remains low at 43%. Montenegro performed better than the EU average (EU cooperation in education and training target i.e. ET 2020) regarding early school leavers, where its share declined to 4.6% in 2018 (from 5.4% in 2017). However, participation in lifelong learning, at 3.3%, is well below the ET 2020 target of 15%. Implementation of the national qualifications framework (in line with the European qualifications framework) continued, and activities were carried out to promote Europass. The number of children with special needs enrolled in mainstream schooling increased and children with disabilities and of Roma background have better access to education. However, to ensure that they remain in school, and learn and progress, stronger support is required, including reinforcing positive measures already taken such as longer preparatory pre-school, free textbooks, and scholarships. Montenegro's 2019-2025 inclusive education strategy - in force since January 2019 - sets standards and recommendations in line with the UN Convention on the Rights of Persons with Disabilities. A curriculum for teacher training was developed to build capacities to foster a democratic school culture.

Progress continued on vocational education and training (VET). The dual education programme (to address the skills mismatch) saw significant increases in student enrolment and employer participation, and there was further teacher and mentor training in companies. A memorandum of understanding between the Ministry of Education and the Chamber of Economy facilitates implementation of the programme, with particular emphasis on financial commitments from both sides. Further new modular curricula based on learning outcomes were implemented, and 300 scholarships were provided for first grade students to enrol in recognised deficit occupations. A comprehensive evaluation of the outcome of the dual-education programme needs to be carried out. Student transfers from VET to higher education continue to be comparatively high (58% in 2017). The skills mismatch continues to manifest itself at secondary and higher education levels and needs continued priority attention.

Follow-up on the findings and recommendations from the pilot assessment on governance and financing of the VET sector is ongoing.

A new performance-based financial contracting model was adopted for the University of Montenegro (UoM) in December aimed at improving the quality of public funding. Following an independent external evaluation, improved implementation of the 3+2+3 model is expected to better align with main Bologna principles. The results of implementing 25% practical teaching in all study programmes at UoM needs to be systematically monitored and evaluated. The outcomes of ongoing tracer studies should help to provide information on transition and skills mismatch issues. In March 2019, an ambitious Law on academic integrity was adopted aiming to strengthen responsibility for ethical behaviour at higher education institutions, and to address plagiarism.

The country continues to participate actively in the EU Erasmus+ programme. Since 2014 there have been 1,200 mobilities of staff and students from Montenegro, and 18 capacity building projects are currently being implemented in the field of higher education involving local beneficiaries.

The PISA (Programme for International Student Assessment - in mathematics, science and reading) working group adopted an action plan aimed at achieving improved results in the 2018 round of testing (results due in December 2019). TIMSS (Trends in International Mathematics and Science Study) testing for fifth grade pupils was carried out for the first time in 2018, and Montenegro will participate in the PIRLS 2021 international assessment on reading literacy. For the 2018/2019 school year, the Adolescence Skills programme – which includes socio-emotional competences - and the Content and Language Integrated Learning (CLIL) approach are being implemented in selected primary schools.

On **culture**, more than 200 local and national events were organised as part of the 2018 European Year of Cultural Heritage. The Ministry of Culture established a directorate for projects on culture and developing creative industries; it also launched calls for funding NGO initiatives and co-financing projects of special public interest. Close attention to preserving Kotor's UNESCO World Heritage status should continue. The country shows a satisfactory level of participation in the EU Creative Europe Programme.

Financial support for **youth** projects increased significantly and a new Law on youth was adopted with provisions along the lines of the renewed EU youth strategy 2018. The local branch office of the Regional Youth Cooperation Office (RYCO) implements many varied actions to support youth mobility and regional cooperation. Montenegro participated for the first time in the European Week of **Sports** by organising a large number of sport activities in the country.

## 5.27 Chapter 27: Environment and climate change

*The EU promotes strong climate action, sustainable development and protection of the environment. EU law contains provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.*

Montenegro has **some level of preparation** in this area. **Limited progress** has been made in further aligning legislation with the EU *acquis*. However, significant efforts are still needed on implementation and enforcement, in particular on waste management, water quality, nature protection and climate change. The 2018 recommendations remain valid and in the coming year, Montenegro should in particular:

- accelerate implementation of the national strategy for transposition, implementation and enforcement of the EU *acquis* on environment and climate change, especially in the waste, water and nature protection sectors;
- take urgent measures to preserve and improve the ecological value of protected areas and potential Natura 2000 sites such as Ulcinj Salina, Lake Skadar, the Tara river and other river courses;
- develop its National Energy and Climate Plan in line with the Energy Community recommendations;

## Environment

On **horizontal legislation**, in June 2018 Montenegro adopted the 2018-2020 action plan for its national strategy to align with and implement the EU *acquis* on environmental protection and climate change. However, the lack of administrative capacity and financial resources at national and local level are delaying the strategy's implementation. Genuine dialogue between civil society and the government is required to achieve effective public participation and consultation in decision-making. The Fund for Environmental Protection was established in November 2018 and needs to become operational. The Law on environmental impact assessment, aligning with the EU Environmental Impact Assessment Directive was adopted in November 2018. Further progress is needed on the implementation of the remaining horizontal EU Directives such as the Environmental Crime and the Environmental Liability Directives. Montenegro also needs to ensure the independent functioning of the Nature and Environmental Protection Agency.

On **air quality**, the level of legislative alignment with the EU *acquis* is relatively advanced. Amendments to the Decree establishing the air quality monitoring network were adopted in September 2018. All activities related to the national air quality management strategy for 2017 have been undertaken.

Regarding **waste management**, Montenegro remains partially aligned with the EU *acquis*. Considerable efforts in terms of strategic planning and investments are needed to implement the national strategy for waste management until 2030 and the 2015-2020 national waste management plan. Amendments to the 2015-2020 national waste management plan were adopted in May 2018 but did not clarify the country's basic waste management model, although four waste management centres are envisaged for the whole country. Some progress has been achieved on managing municipal waste and separate waste collection in the municipalities of Gusinje, Danilovgrad and Tivat. There is an urgent need to remedy illegal waste disposal and the use of temporary waste disposal in all municipalities. Infrastructure for separate waste collection and recycling needs to be established.

Alignment on **water quality** remains limited. The national strategy for water management until 2035 is being implemented and work on river basin management plans is ongoing, but the competent management authorities are yet to be operational. Preparations have started for a water status monitoring system and for improved quality monitoring of surface and ground waters. Wastewater remains a main source of pollution. The development of a floods hazard map and flood risk map is being prepared. The implementation of the Marine Strategy Framework Directive remains at an early stage.

On **nature protection**, Montenegro is partially aligned with the EU *acquis*. Work continued on the designation of future Natura 2000 sites. Temporary management of the potential Natura 2000 site Ulcinj Salina through the public enterprise for national parks was extended, but no tangible progress was achieved on protecting the site, which continues to require

resolute and urgent action. The responsibility lies now with the municipality of Ulcinj to take the necessary measures to declare Ulcinj Salina a protected area. The authorities should also strictly assess and prevent possible negative environmental impacts of building construction in the Skadar Lake national park and on Tara River in the context of the Bar-Boljare highway development. Work to identify and designate marine protected areas needs to continue while ensuring in the meantime that marine species are protected, for example during seismic surveys for oil and gas exploration. Potential investments in hydropower and touristic developments need to comply with nature protection and water management legal requirements.

On **industrial pollution and risk management**, Montenegro is partially aligned with the EU *acquis*. Amendments to the Law on integrated prevention and control of environmental pollution were adopted in July 2018. In March 2018, the Nature and Environmental Protection Agency issued an integrated permit to the national electric power company for the operation of the Pljevlja thermo-power plant.

On **chemicals**, Montenegro is partially aligned with the *acquis*. Secondary legislation was adopted in October 2018 on methods of use, production and placing on the market of chemicals that represent a risk for human health and the environment, in line with the REACH Regulation. Montenegro ratified the Minamata Convention on mercury in March 2019. A national helpdesk has been established in May 2018 as first point of contact for questions related to the Biocidal Products, REACH and CLP regulations. Montenegro became observer within HelpNet, the respective European network on those regulations in October 2018.

On **noise**, Montenegro continues its work on the preparation of strategic noise maps. The strategic noise map for Podgorica was adopted in September 2018.

On **civil protection**, Montenegro has been a member of the Union Civil Protection Mechanism since April 2015. Montenegro could contribute more to the Mechanism by registering experts or response capacities in the voluntary pool and participating regularly in the committees and working groups established under the Mechanism. It still needs to connect with the Common Emergency Communication and Information System (CECIS) and needs to establish the Secure Trans European Services for Telematics connections between Administrations (sTESTA), as a precondition to connect to CECIS. The 2018-2019 action plan to implement the disaster risk reduction strategy was adopted in March 2018.

#### Climate change

Montenegro's level of alignment on climate change remains limited. Montenegro has a Climate Change Strategy in place, but has to intensify its work to ensure consistency with the EU 2030 climate and energy policy framework and to ensure that its strategy is integrated into all relevant sectoral policies and strategies.

As for the UN Framework Convention on Climate Change (UNFCCC), Montenegro has so far submitted two national communications and its second bi-annual report was submitted in April 2019. The Law on the Doha amendment to the Kyoto Protocol to the UNFCCC was adopted in October 2018.

The adoption of a climate change law, which will, among others, incorporate elements of the EU emissions trading system (ETS), the Effort Sharing Regulation and the monitoring and reporting mechanism (MMR), is still pending. Considerable efforts are still needed to align with the EU climate *acquis*.



## 5.28 Chapter 28: Consumer and health protection

*EU rules protect consumers economic interests and in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, patients' rights and communicable diseases.*

Montenegro is **moderately prepared** on consumer and health protection. **Some progress** was made, notably on alignment with the EU *acquis*. However, the previous recommendations on health protection remain to be met, and the one on consumer protection still needs to be met. Therefore, in the coming year Montenegro should:

- ensure the necessary implementation capacity to implement the EU consumer protection EU *acquis*;
- ensure further alignment with the EU's health protection *acquis*, notably with regard to tobacco control and patients' rights in cross-border healthcare, and start to implement it fully;
- adopt the action plan on substances of human origin and start implementing the action plan on communicable diseases.

### Consumer protection

Regarding the **legislative framework for consumer protection**, Montenegro has adopted legislation designed to ensure alignment with the *acquis* on consumer protection and legislative amendments designed to ensure alignment on general product safety in February 2018. In October 2018, amendments were made to the Decree on the operation of the system for rapid exchange of information on products posing a risk, and in July 2018 to the Law on market surveillance.

In the period January 2018 to February 2019, the Administration for Inspection Affairs performed 2,277 inspections in the field of consumer protection (including 161 inspections following consumer complaints), identifying 436 irregularities leading to administrative measures (245 indictments and 186 decisions).

On **product safety**, 4,771 inspections were carried out, 4,086 in proactive surveillance and 685 in reactive surveillance, identifying 235 dangerous products (44,696 items). Of these, 132 (5,028 items) were classified as dangerous products representing serious risk and were withdrawn from the market, and 19 products (1,570 items) were destroyed.

### Public health

Regarding **public health**, national legislation on healthcare is partly aligned with the EU *acquis*. Average life expectancy rose slightly from 76.1 to 76.8 between 2010 and 2018. Implementation is continuing of the 2015-2020 master plan for health development, aiming to provide accessible and comprehensive health care. Although the country's health budget has remained over 5 % of GDP for a number of years, the lack of fiscal sustainability continued to impact negatively on the work of public health bodies, programmes and actions. The over-prescription of medicines continues, and the prescription of antibiotics needs to be better regulated to fight against anti-microbial resistance. External surveys assessing corruption affecting the sector have received significant public attention. With regard to the **health information system**, the integrated information system (IIZS) covers all health providers; in June 2018, the government adopted the 2018-2023 strategy for development of the Integral Health Information System and e-Health foresees the establishment of an organisational unit in the Ministry of Health to manage the Integral Health Information System.

On **tobacco control**, national legislation is partly aligned with the EU *acquis*. The Health Promotion Centre of the Public Health Institute collected data to contribute to the 2018 Global Youth Tobacco Survey (GYTS). A smoking ban in public places exists but it is not implemented. The retail price of tobacco products was reduced again following an increase in early 2018 which led to a large increase in undeclared sales.

On **blood, tissues, cells and organs**, Montenegro has adopted legislation designed to achieve alignment to some of the EU *acquis* on tissues, blood, and organs. The national Blood Transfusion Institute has received two ISO certifications (ISO 9001:2015 for quality system and ISO 27001:2013 for information security). Several awareness raising activities on the need for voluntary blood donations were conducted throughout 2018. However, the planned action plan on substances of human origin is yet to be finalised.

In the field of **serious cross-border health threats**, including **communicable diseases**, national legislation on healthcare is partly aligned with the EU *acquis*. The 2018 programme for mandatory immunisation against certain communicable diseases continued, but citizen non-compliance remains a concern. In early 2018, Montenegro adopted a 2017-2022 action plan on communicable diseases, and nominated a focal point to participate in the health security meetings (i.e. on serious cross-border health threats). The Law on the protection of population against communicable diseases was adopted in March 2018, completed by secondary legislation adopted in August 2018. Epidemiological information is gathered and exchanged with EU Member States. A national laboratory for influenza was established and accredited during the reporting period.

Regarding **patients' rights in cross-border healthcare**, the Health Insurance Act is partly aligned with the EU *acquis*. This act ensures that insured individuals may use healthcare in EU Member States and third countries and that the costs are covered by the health insurance. However, the engagement of patient organisation in decision-making needs to be strengthened. The Institute for Public Health is responsible for **eHealth** issues. In addition to eAppointments, ePrescription and eTest results, a new electronic ePharmacy service was introduced in November 2018.

National **cancer** screening programmes (targeting colon, cervical and breast cancer) are being implemented. However, insufficient efforts are made to guarantee that children are screened and/or treated with due respect for their rights. Cancer registries need to be developed.

Implementation of the 2017-2018 action plan for the **mental health** strategy for is ongoing. There is still no national data regarding the proportion of mental health care provided by institutions compared to community-based care. The psychiatric hospital in Kotor recruited a number of specialists in 2018.

On **preventive measures**, data remains unavailable for both nutrition and physical activity. There were no reported activities to reduce **alcoholism and prevention of alcohol-induced disorders**. Specialist organisations report that sales of alcohol to minors are common and that communication on this is insufficient.

On **drug abuse prevention and harm reduction**, the 2017-2018 action plan of the drug abuse prevention strategy is being implemented. The involvement of civil society in the National Council for the Prevention of Drug Abuse and in the National Commission on Drugs needs to be strengthened and encouraged.

On **health inequalities**, access to healthcare services needs to be ensured and made available for all vulnerable groups, particularly people with disabilities, people living with HIV, children and adults who use drugs, prisoners, women in prostitution, LGBTI people, internally displaced persons and Roma. The 2017 World Bank/UNDP/EC Regional Roma

Survey found that 80 % of the Roma and Egyptian population have a health insurance coverage. Three Roma ‘mediators’ operate in three cities as community liaison officers and conducting outreach activities. Two gender reassignment surgeries were performed in the reporting period, financed by the Health Insurance Fund.

## 5.29 Chapter 29: Customs union

*All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment, adequate implementing and enforcement capacity, and access to the common computerised customs systems.*

Montenegro is **moderately prepared** for customs union and made **some progress** during the reporting period, partially fulfilling last year's recommendations.

In the coming year, Montenegro should in particular:

- further advance preparations for accession to the Convention on a common transit procedure, by establishing an EU-compatible computerised transit system and ensuring adequate staffing levels for its implementation;
- start implementing trade facilitation measures in order to reduce administrative inefficiencies and the time needed for customs clearance, and enhance capacity building in the customs administration

On **customs legislation**, the degree of alignment with the EU *acquis* is high. In July 2018, Montenegro adopted secondary legislation introducing amendments to the customs tariffs for products covered by the World Trade Organisation (WTO) Information Technology Agreement, in line with the country's protocol of accession to the WTO and the Combined Nomenclature of the EU. Amendments were adopted in December to the secondary legislation concerning transit, classification and origin of goods, as well as non-preferential origin, aimed at alignment with Union Customs Code. The amendments will apply as of July 2021. Legislation on the customs tariff for 2019 was adopted in January 2019. Amendments have been prepared to secondary legislation on conditions for granting the status of Authorised Economic Operator (AEO), aimed at alignment with the Union Customs Code. Adoption is pending of the secondary legislation to the Law on customs service on monitoring, intercepting and examining vehicles, passengers and baggage, and on issuing warnings and warrants by authorised customs officers.

The Regional Convention on Pan-Euro-Mediterranean preferential rules of origin is applied by Montenegro. Following the entry into force of Additional Protocol 5 of the CEFTA agreement on trade facilitation, the customs administration is in the process of signing agreements with relevant administrative bodies to ensure effective information sharing and mutual assistance on customs-related processes. The CEFTA protocol of origin, introducing full cumulation and prohibition of duty drawback, entered into force with application as of July 2019.

Further legislative alignments are needed on drug precursors, security aspects, and on export control for cultural goods. A number of customs exemptions, not laid down in the Union Customs Code are still applied. Fees are still charged to lorries in inland customs terminals located in privately owned facilities, which is not in line with EU *acquis*.

On **administrative and operational capacity**, the customs administration adopted its 2019-2021 business strategy and accompanying action plan. With the adoption of the new national legislation on the organisation and working methods of the State administration in December 2018, the customs administration ceased to be an authority within the Ministry of Finance and gained the status of an independent administrative body.

Further progress was made towards accession to the Transit Convention and establishing a new computerised transit system (NCTS). The technical capacities of customs enforcement teams have been significantly enhanced. A training centre for customs officers has been established and become operational. Simplified procedures for customs clearance of express consignments have been completed, pending necessary authorisations for implementation. However, preparation for the accreditation of the customs laboratory has stalled and needs to resume. Staffing of the IT department remains a challenge which, if not addressed adequately, risks jeopardising the implementation of NCTS and related projects.

The customs administration is a member of the Intellectual Property Rights Coordination Team and participates in joint actions of the working group aimed at suppression and prevention of intellectual property rights infringements. Revenue collection in 2018 shows an 11% increase compared to 2017; however, further efforts need to be invested in the collection of customs debt, in line with the recommendations of the State Audit Institution. The country's Trade Facilitation Strategy, adopted in March 2018, envisages a reduction of the average time for customs clearance by 50% and of the transaction costs by 20% by the end of 2022.

Despite improvements to the control facilities at the free zone in the port of Bar and some recent successes in anti-smuggling operations, the customs authorities still need to address significant challenges in controlling the illicit tobacco trade and should further strengthen international cooperation on this matter. In this respect, Montenegro is a Party to the Protocol to Eliminate Illicit Trade in Tobacco Products since 2017 and should be encouraged to focus on its implementation.

### 5.29 Chapter 30: External relations

*The EU has a common trade and commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules in the field of humanitarian aid and development policy.*

Montenegro has reached a **good level of preparation** in this area. **Some progress** on the 2018 recommendations was made by adopting the legislative and institutional set-up for international development cooperation and humanitarian aid. Montenegro also ratified the CEFTA Additional Protocol 5 on Trade Facilitation.

In the coming year; Montenegro should in particular:

- adopt legislation, in line with the EU *acquis*, on export controls of dual-use goods;
- implement actions under the multiannual action plan for the development of a Regional Economic Area, in particular implement CEFTA additional protocol (AP) 5 on trade facilitation, adopt and implement the pending CEFTA AP 6 on trade in services, and negotiate and ensure a swift adoption of CEFTA AP 7 on dispute settlement.

As regards the **common commercial policy**, Montenegro continued to coordinate its positions and align its policies closely with those of the EU, including within the WTO. With the aim of fully implementing the WTO Trade Facilitation Agreement, the government adopted in April 2018 an ambitious trade facilitation strategy and action plan for 2018-2022. Their timely implementation and appropriate monitoring should be ensured, along with a dedicated website for tracking developments. Montenegro has yet to submit the notifications required under Articles 1.4, 10.6.2 and 12.2.2 of the WTO Trade Facilitation Agreement. The first WTO review of Montenegro's trade policies and practices was successfully concluded in May 2018.

In May 2018, Montenegro aligned its national control list of dual-use goods with the 2017 EU regime on exports, transfer, brokering and transit of these items. Montenegro is in the process of finalising the new Law on export control of dual-use goods, aimed at further alignment with the EU *acquis*, and should continue upgrading administrative and control capacity. No decision was taken yet on Montenegro's application to the Wassenaar Arrangement.

To ensure implementation of the Law on foreign trade of goods and services, the government adopted a decision in October 2018 on goods prohibited for export that are aimed at the deprivation of life, capital punishment or torture. Montenegro has legislation in place aimed at implementing the Kimberley Process certification procedure, including provisions on sanctions.

Following adoption of the amendments to the Law on investment and development fund to regulate the issuing and financing of export credits, Montenegro should adopt the necessary secondary legislation in line with the EU *acquis*.

Montenegro continued its active participation in CEFTA. The law on ratification of AP 5 on trade facilitation within CEFTA entered into force in 2018. AP 6 on trade in services is yet to be adopted, while for AP 7 the government adopted the platform for negotiation and established a negotiation team in September 2018. The Directorate for Multilateral and Regional Trade Cooperation and Foreign Economic Relations, in charge of CEFTA and WTO matters, should continue to strengthen its administrative capacities to enable implementation of its trade commitments.

Montenegro finalised negotiations on amendments (concerning concessions in agriculture and trade in services) to the free trade agreement with Turkey in October 2018; ratification is pending. The government adopted information on the status of **bilateral agreements with third countries** in July 2018 and established a working group to analyse existing agreements and develop a new model in line with EU and international standards.

On **development policy** and **humanitarian aid**, the Law on international development cooperation and international humanitarian assistance, adopted in April 2018, is partially aligned with the EU *acquis* and funds were allocated towards Montenegro's first strategic development activities. Relevant secondary legislation should be adopted to ensure further alignment in this area, and a database of donor support projects needs to be developed, using the OECD Development Assistance Committee methodology. Montenegro became a member of the International Aid Transparency Initiative in May 2018.

Montenegro needs to continue its preparations in this chapter in accordance with its overall action plan on external relations.

### **5.31 Chapter 31: Foreign, security and defence policy**

*Member States must be able to conduct political dialogue in the framework of the foreign, security and defence policy, to align with EU statements, to take part in EU actions and to apply agreed sanctions and restrictive measures.*

Montenegro has a **good level of preparation**. **Some progress** was made through the adoption of further amendments to the Law on international **restrictive measures**, introducing stronger and more dissuasive sanctions. Montenegro continued to participate in civil and military crisis management missions and to align with EU positions.

The regular **political dialogue** between the EU and Montenegro on foreign and security policy issues continued. A political dialogue between the EU and Montenegro on UN issues took place in October 2018. Montenegro's foreign affairs and defence ministries have sufficient structures in place to be able to participate in the common foreign and security

policy and the common security and defence policy. (For more information on developments in bilateral relations with other enlargement countries and EU Member States, *see section Regional issues and international obligations.*)

On the **common foreign and security policy (CFSP)**, Montenegro supports the global strategy for the European Union's foreign and security policy. Montenegro continued to align with all relevant High Representative declarations on behalf of the EU and Council decisions (100% alignment). The Law on international **restrictive measures** was amended in July 2018, to provide for the freezing of assets of persons from the national list of legal and natural persons designated as terrorists (and their financiers), as well as stronger and more dissuasive sanctions.

The country still maintains a **bilateral immunity agreement** with the United States, granting U.S. citizens exemptions from the jurisdiction of the **International Criminal Court**. In doing so, it does not comply with the EU common positions on the integrity of the Rome Statute or with the related EU guiding principles on bilateral immunity agreements.

Montenegro is participating in some international export control arrangements and instruments on **non-proliferation**, but still not in all of them. The strategy for non-proliferation of weapons of mass destruction and the body for monitoring its implementation are in place. The first report of the realisation plan is still pending.

A new strategy and action plan (2019-2025) to combat the illegal possession, misuse and trafficking in small arms and light weapons (SALW) and ammunition was adopted in December 2018. A related national registration system and database are in place.

Regarding **cooperation with international organisations**, the process of adaptation to NATO standards is ongoing in Montenegro (the 29th NATO Member State).

On **security** measures, the EU-Montenegro security agreement on the exchange and protection of classified information continued to be implemented mostly through exchange of classified data regarding the EU military and civilian missions and operations and for issuing personnel security clearances (PSC).

Montenegro continued to actively participate in **military crisis management** missions under the **common security and defence policy (CSDP)**, notably EUTM Mali and EU NAVFOR Atalanta. Montenegro continues to take part in UN operations UNFICYP and MINURSO. Since the mandate of the International Security Assistance Force mission in Afghanistan expired in 2014, members of the Montenegrin Army continue to serve in the NATO-led resolute support mission. In July 2018, the Parliament decided to send two staff officers to the KFOR mission in Kosovo; the first officer was deployed in October 2018.

Montenegro officially applied in January 2019 to participate in the EU Hybrid Risk Survey in order to identify key vulnerabilities and get assistance through EU instruments to build capacities, thus strengthening resilience against hybrid threats. The survey was launched with the Ministry of Defence in February 2019.

### **5.32. Chapter 32: Financial control**

*The EU promotes the reform of national governance systems to enhance managerial accountability, sound financial management of income and expenditure and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and the euro against counterfeiting.*

Montenegro is **moderately prepared** on financial control. **Some progress** was made in the reporting period with the adoption of the Law on governance and internal control and

secondary legislation on the protection of the euro against counterfeiting. Further efforts are needed to address managerial accountability and to strengthen the functioning of internal control and internal audit. High-level political support will remain instrumental for implementing public internal financial control reforms at all levels of the administration and in state-owned companies. Since only partial progress was made on implementing of the Commission's 2018 recommendations, they remain largely valid.

In the coming year, Montenegro should in particular:

- adopt and start implementing a strategy on improving governance and public internal financial control (PIFC Policy paper);
- ensure adoption of an external audit methodology that fully complies with the International Standards of Supreme Audit Institutions (ISSAIs);
- strengthen the coordination capacity of the National Anti-fraud Coordination Service.

### **Public internal financial control (PIFC)**

A **strategic framework** for PIFC is partially in place. In order to ensure a specific policy approach for managerial accountability, the planned strategy for the improvement of governance and internal control in the public sector 2019-2023 should be adopted. A number of enabling conditions for PIFC implementation have been included in the 2016-2020 public administration reform strategy and in the 2016-2020 public financial management (PFM) reform programme. The development of the draft managerial accountability paper has been coordinated with other reforms, and the monitoring and reporting is foreseen upon adoption.

**Managerial accountability** within institutions has been defined under the Law on Governance and Internal Control, which was adopted in November 2018. Accountability mechanisms between ministries and subordinated bodies have been improved with the new Law on state administration. However, the practical implementation of managerial accountability within institutions still needs to be specifically defined in the planned strategy for improvement of governance and internal controls in the public sector and then implemented in practice. The managerial culture within public institutions appears highly centralised with little delegation of budget authority or decision-making powers to middle management. Managerial accountability is further limited by a primary focus on compliance, rather than on performance. (*See Public Administration Reform*).

**Internal control** is regulated in line with international standards in the Law on governance and internal control. A Financial Management and Control manual is in place. However, the proper and effective functioning of internal control, in particular of risk management, is not yet consistently applied across all budget entities. A system for the detection and acting on information about financial irregularities still has to be developed. The centralised budget inspection function in the Ministry of Finance is not fully operational.

**Internal audit practice** is regulated in line with international standards. However, not all institutions that are required to establish an internal audit unit have done so. Many internal audit units that are in place are not yet sufficiently staffed. The timely rate of implementation of internal audit recommendations needs to be improved. Montenegro has in place a national internal audit training and development plan.

The **Central Harmonisation Unit (CHU)** in the Ministry of Finance is responsible for developing and disseminating methodological guidance on PIFC, as well as monitoring and reporting on PIFC implementation. It has started to conduct internal control quality reviews. The CHU prepared an annual report on PIFC implementation that contains conclusions for

adoption by government, and it follows up on the state of implementation of these conclusions and reports on this in the subsequent annual report.

### **External audit**

Montenegro's **constitutional and legal framework** provides for independence of the State Audit Institution (SAI) in line with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI). Although seven additional staff were hired during the reporting period, the SAI still faces **institutional capacity** issues. The SAI continues to implement its 2018-2022 strategic development plan,

To improve the **quality of audit work**, in September 2018 the SAI adopted guidelines on auditing the final statement of accounts, in accordance with its strategic development plan 2018–2022. SAI still needs to adopt an external audit methodology that fully complies with INTOSAI Standards. In order to improve performance audit work, the SAI has established a dedicated performance audit department. In 2018, the SAI conducted four performance audits, the same as in 2017.

To strengthen the **impact of audit work**, the Parliament and SAI put in place a memorandum of understanding in May 2018, with the aim of improving the follow-up of audit reports. A protocol with the Supreme State Prosecutor was agreed in 2018 on the handling of suspected illegal actions uncovered during the course of SAI audits. Parliament only makes limited use of the SAI reports; however, the SAI law calls on Parliament to decide on proposed measures and time limits for the on implementation of the SAI recommendations regarding the Final Statement of Accounts. The SAI undertakes follow-up audits on the implementation of its recommendations.

### **Protection of the EU's financial interests**

**Acquis alignment** is already at a high level, but Montenegro still needs to pass a criminal law to ensure full harmonisation with the Directive 2017/1371 on the fight against fraud to the Union's financial interests. A 2019-2021 national anti-fraud strategy needs to be adopted to provide a strategic basis for improving the capacity of the national **Anti-Fraud Coordination service** (AFCOS) and the overall functioning of the AFCOS network. Montenegro ensures **cooperation with the European Commission** during investigations and reports to the Commission on identified irregularities. Since 2012, Montenegro has reported 42 cases via an online irregularity management System, including six cases in 2018 and 27 cases in the first two months of 2019. Montenegro still needs to establish a solid track record on investigations and reporting on irregularities.

### **Protection of the euro against counterfeiting**

Montenegro has ensured high level of **acquis alignment**. In 2018, the central bank adopted several pieces of secondary legislation, notably on medals and tokens similar to euro coins, (ii) on handling of suspect euro notes and coins, and on authenticity and fitness-checking and recirculation of euro notes and coins. The central bank has the required capacity for **technical analysis** and it provides regular training to cash handlers, police and the Prosecutor's Office. The central bank has concluded **cooperation agreements** with the European Commission and the European Central Bank and it cooperates with relevant foreign institutions. Montenegro continues to participate in the actions of the Pericles 2020 programme.

## **5.33 Chapter 33: Financial and budgetary provisions**

*This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; and (iii) a resource based on value-added tax.*



*Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.*

Preparations in this area are at an **early stage**. There was **limited progress** in strengthening the administrative capacities for coordination and management of own resources, and further efforts are needed to ensure a solid institutional set-up and strong inter-institutional cooperation among all the institutions and bodies involved in the application of own resources system. The 2018 recommendations remain valid.

Therefore, in the coming year, Montenegro should in particular:

- further align legal framework and rules of administration for the own resources system and VAT with the EU *acquis*; and respect commitments made in the framework of the technical assistance and own resources monitoring programme;
- update and fully implement the own resources system action plan;
- ensure adequate capacity at the Directorate for Coordination and Management of EU resources and at all institutions involved in the own resources system.

Montenegro's legal framework for the own resources system needs to be fully aligned with the EU *acquis*.

As regards **traditional own resources**, the previously planned action plan was not adopted. A revised own resources system action plan was adopted in spring 2019. Substantial efforts will be needed to ensure its full implementation.

On **value added tax-based resource**, the amended Law on VAT is partly aligned with the EU *acquis*. Further alignment is needed on the supply of goods, taxpayers and the VAT base, VAT exemptions in the public interest and the issuing of invoices.

On **gross national income-based resources**, Montenegro's GPD is calculated according to the methodology of the European system of national and regional accounts (ESA 2010).

On **administrative infrastructure**, a comprehensive training needs plan needs to be developed and capacity building provided for the budget directorate, in particular for the Directorate for Coordination and Management of Own Resources of the EU, as well as for all institutions involved in the own resources system.

## **ANNEX I - RELATIONS BETWEEN THE EU AND MONTENEGRO**

Within the framework of the **accession negotiations**, by May 2019, 32 chapters, including chapters 23 and 24 on the rule of law, had been opened, three of which, i.e. science and research, education and culture and external relations, have been provisionally closed.

Montenegro is participating in the **Stabilisation and Association Process**. Overall, Montenegro continued to broadly implement its obligations under the **Stabilisation and Association Agreement (SAA)**.

Regular political and economic dialogue between the EU and Montenegro has continued through the SAA structures. The Stabilisation and Association Council met in June 2018 and the Stabilisation and Association Committee in December 2018. Regular subcommittee meetings have been held throughout the period. Two meetings of the Stabilisation and Association Parliamentary Committee were held, in November 2018 and March 2019.

Montenegro participates in ministerial dialogue between the economic and finance ministers of the EU and the candidate countries, which aims at helping the latter gradually meet the economic accession criteria and be better prepared in terms of economic reforms, competitiveness and job creation. The most recent meeting was held on 17 May 2019, where joint recommendations were adopted.

**Visa liberalisation** for citizens of Montenegro travelling to the Schengen area has been in force since December 2009. As part of the monitoring mechanism in place since visa liberalisation, the Commission has been regularly assessing the progress made by the country in implementing reforms introduced under the visa roadmap. The monitoring mechanism also includes an alert mechanism to prevent abuses, coordinated by the European Border and Coast Guard Agency. The Commission has regularly submitted its post-visa liberalisation monitoring reports to the European Parliament and the Council. A **readmission agreement** between the European Union and Montenegro has been in force since 2008.

Montenegro is currently benefitting from EU financial assistance under the Instrument for Pre-accession Assistance (IPA) with an indicative allocation of EUR 279.5 million for the period 2014-2020, out of which almost EUR 197 million has been already programmed in the period 2014-2018 based on the priorities set out in the Indicative Strategy Paper. The 2018 action programme provided EUR 28.2 million for reforms and investments in the area of the rule of law and fundamental rights, agriculture and rural development. In 2018, Montenegro benefited from additional EUR 8 million, following the performance reward exercise undertaken in the framework of the mid-term review of the Indicative Strategy Paper. These additional funds were allocated to the social sectors, with a specific focus on the health sector.

Montenegro continues to benefit from support under the IPA multi-country and regional programmes. It continues to participate in four cross-border cooperation programmes with neighbouring Western Balkan countries and in transnational cooperation programmes with Member States under the European Regional Development Fund and the IPA Adriatic cross-border programme.

Montenegro continues to benefit from participation in the following EU programmes, with IPA support: Erasmus+, Creative Europe (Culture and Media strands), Employment and Social Innovation, Horizon 2020, Customs 2020, Fiscalis 2020, Competitiveness of Enterprises and Small and Medium-Sized Enterprises Programme (COSME). Montenegro also participates with own funds in the EU Justice Programme.

## ANNEX II – STATISTICAL ANNEX

### STATISTICAL DATA (as of 29.04.2019)

#### Montenegro

<b>Basic data</b>	Note	2006	2013	2014	2015	2016	2017
Population (thousand)		613.1	620.9	621.5	622.1	622.2	622.4
Total area of the country (km <sup>2</sup> )		13 812	13 812	13 812	13 812	13 812	13 812

<b>National accounts</b>	Note	2006	2013	2014	2015	2016	2017
Gross domestic product (GDP) (million euro)		2 170	3 363	3 458	3 655	3 954	4 299
GDP (euro per capita)		3 500	5 400	5 600	5 900	6 400	6 900
GDP per capita (in purchasing power standards (PPS))		8 500	10 900	11 300	12 300	13 000	13 700
GDP per capita (in PPS), relative to the EU average (EU-28 = 100)		35	41	41	42	45	46
Real GDP growth rate: change on previous year of GDP volume (%)		:	3.5	1.8	3.4	2.9	4.7
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	:	:	:	:	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2010 = 100)		:	:	:	:	:	:

Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-28 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		10.0	9.8	10.0	9.7	9.0	8.4
Industry (%)		17.3	14.3	13.5	12.8	12.2	11.2
Construction (%)		4.3	4.5	4.2	4.5	6.7	8.2
Services (%)		68.4	71.4	72.3	73	72.1	72.2
Final consumption expenditure, as a share of GDP (%)		112.9	100.5	99.6	98.4	96.4	93.2
Gross fixed capital formation, as a share of GDP (%)		22.8	20.2	19.0	20.1	24.7	26.9
Changes in inventories, as a share of GDP (%)		1.1	-0.6	1.2	-0.1	1.4	3.3
Exports of goods and services, relative to GDP (%)		40.6	41.3	40.1	42.1	40.6	41.1
Imports of goods and services, relative to GDP (%)		77.4	61.4	60.0	60.6	63.1	64.5
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

<b>Business</b>	Note	2006	2013	2014	2015	2016	2017
Industrial production volume index (2010 = 100)		128.1	92.3s	81.8s	88.3s	84.4s	81.8s
Number of active enterprises (number)		:	:	:	:	:	:
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	16.2	14.5	14.9	13.1	:
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	4.3	9.1	7.6	6.1	:

People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		:	:	:	:	:	:
Value added by SMEs (in the non-financial business economy) (EUR million)		:	811	869	912	1071	1 220
Total value added (in the non-financial business economy) (EUR million)		:	1 271	1 308	1 336	1 530	1780

### Inflation rate and house prices

	Note	2006	2013	2014	2015	2016	2017
Harmonised consumer price index (HICP), change relative to the previous year (%)	1)	2.1	1.8b	-0.5	1.4	0.1	2.8
**Annual change in the deflated house price index (2010 = 100)		:	:	:	:	:	:

### Balance of payments

	Note	2006	2013	2014	2015	2016	2017
Balance of payments: current account total (million euro)	2)	-674	-383	-429	-402	-642	-692
Balance of payments current account: trade balance (million euro)	2)	-966	-1 329	-1 376	-1 464	-1 658	-1 860
Balance of payments current account: net services (million euro)	2)	166	653	690	789	769	852
Balance of payments current account: net balance for primary income (million euro)	2)	36	66	46	80	35	88
Balance of payments current account: net balance for secondary income (million euro)	2)	90	227	211	193	212	228
Net balance for primary and secondary income: of which government transfers (million euro)	2)	7	22	24	4	24	21
**3 year backward moving average of the current account balance relative to GDP (%)		:	-13.8	-13	-11.6	-13.2	-14.4

**Five year change in share of world exports of goods and services (%)		:	:	:	:	:	:
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		469.7	323.9	353.9	619.3	371.6	484.3
Foreign direct investment (FDI) abroad (million euro)		26.1	13.0	20.7	11.1	-167.0	10.1
of which FDI of the reporting economy in the EU-28 countries (million euro)		2.5	11.1	14.9	8.8	-1.8	-4.3
Foreign direct investment (FDI) in the reporting economy (million euro)		495.8	336.9	374.6	630.3	204.5	494.4
of which FDI of the EU-28 countries in the reporting economy (million euro)		303.0	79.8	117.4	411.8	-27.4	169.7
**Net international investment position, relative to GDP (%)		:	:	:	:	:	:
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)	2)	-43.6	2.1	-6.7	-2.3	-2.8	7.7

### Public finance

	Note	2006	2013	2014	2015	2016	2017
***General government deficit / surplus, relative to GDP (%)		3.4	-5.2	-3.1	-7.4	-2.8	-5.6
***General government gross debt relative to GDP (%)		32.3	57.5	59.9	66.2	64.4	64.2
Total government revenues, as a percentage of GDP (%)		45.6	42.6	44.8	41.7	42.6	41.5
Total government expenditure, as a percentage of GDP (%)		42.3	47.2	47.7	50.0	46.2	46.8

### Financial indicators

	Note	2006	2013	2014	2015	2016	2017
Gross external debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:

Gross external debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	3)	484	:	:	:	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	4)	1 099	:	:	:	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)	5)	1 587	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)	6)	843	1 985	1 929	1 956	2 075	2 291
**Annual change in financial sector liabilities (%)		:	:	:	:	:	:
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)		:	:	:	:	:	:
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	7)	10.34	9.36	9.22	8.53	7.45	6.81
Deposit interest rate (one year), per annum (%)	7)	:	2.54	1.86	1.23	0.93	0.69
Euro exchange rates: average of period (1 euro = ... national currency)		1	1	1	1	1	1
Trade-weighted effective exchange rate index, 42 countries (2005 = 100)		:	:	:	:	:	:
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2005 = 100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		329	424	545	674	803	898

<b>External trade in goods</b>	Note	2006	2013	2014	2015	2016	2017
Value of imports: all goods, all partners (million euro)		1 457	1 773	1 784	1 842	2 062	2 304
Value of exports: all goods, all partners (million euro)		441	376	333	317	326	371
Trade balance: all goods, all partners (million euro)		-1 016	-1 398	-1 451	-1 524	-1 736	-1 932
Terms of trade (export price index / import price index * 100) (number)	8)	:	102	101	101	98	105
Share of exports to EU-28 countries in value of total exports (%)		68.3	41.5	35.7	35.6	37.4	34.8
Share of imports from EU-28 countries in value of total imports (%)		51.8	44.2	45.8	41.3	48.2	47.4

<b>Demography</b>	Note	2006	2013	2014	2015	2016	2017
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		2.5	2.5b	2.4	1.7	1.8	1.5
Infant mortality rate deaths of children under one year of age (per thousand live births)		11.0	4.4	4.9	2.2	3.4	1.3
Life expectancy at birth: male (years)		71.4	74.1	74.1	74.4	74.1	73.9
Life expectancy at birth: female (years)		76.4	79.0	78.9	78.6	78.9	79.2

<b>Labour market</b>	Note	2006	2013	2014	2015	2016	2017
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		65.5	65.1	67.6	68.5	69.1	69.3
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		47.1	52.6	55.6	56.7	57.1	58.2



Male employment rate for persons aged 20–64 (%)		55.0	57.8	61.4	61.9	63.0	65.2
Female employment rate for persons aged 20–64 (%)		39.9	47.5	49.4	51.5	51.3	51.4
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		23.1	38.7	38.7	40.0	41.2	43.7
Employment by main sectors							
Agriculture, forestry and fisheries (%)		:	4.5	5.7	7.7	7.7	7.9
Industry (%)		:	11.9	11.1	10.8	9.8	9.5
Construction (%)		:	5.9	6.5	6.6	7.7	7.6
Services (%)		:	77.7	76.8	74.8	74.8	75.0
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	9)	:	36.0	32.8	32.4	31.2	32.6
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	10)	:	47.7	48.2	46.6	47.0	45.5
Unemployment rate: proportion of the labour force that is unemployed (%)		29.6	19.5	18.0	17.5	17.8	16.1
Male unemployment rate (%)		29.1	20.1	17.8	17.7	18.3	15.4
Female unemployment rate (%)		30.1	18.8	18.2	17.3	17.1	16.9
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		59.5	41.6	35.8	37.6	35.9	31.7
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		:	16.0	14.0	13.6	13.4	12.4
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)		:	39.7	32.8	28.7	22.1	21.7

Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		:	9.0	9.0	9.4	11.5	10.7
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<b>Social cohesion</b>	Note	2006	2013	2014	2015	2016	2017
Average nominal monthly wages and salaries (national currency)		213	487	479	480	499	510
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2010 = 100)		69.2	91.2	91.4	90.6	94.4	94.2
GINI coefficient		:	38	36	36	36	37p
Poverty gap		:	39.7	32.8	36.6	35.6	34.0p
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		:	5.8	5.1	5.7	5.5	5.4

<b>Standard of living</b>	Note	2006	2013	2014	2015	2016	2017
Number of passenger cars relative to population size (number per thousand population)		248.9	288.3	280.1	282.8	296.9	310.5
Number of mobile phone subscriptions relative to population size (number per thousand population)		1 127.4	1 605.4b	1 630.3	1 620.1	1 632.5	1 636.7
Mobile broadband penetration (per 100 inhabitants)		:	13	10	9	9	11
Fixed broadband penetration (per 100 inhabitants)		:	15	17	18	19	22

<b>Infrastructure</b>	Note	2006	2013	2014	2015	2016	2017
Density of railway network (lines in operation per thousand km <sup>2</sup> )		18.4	18.4	18.4	18.4	18.4	18.4
Length of motorways (kilometres)		0	0	0	0	0	0

<b>Innovation and research</b>	Note	2006	2013	2014	2015	2016	2017
Public expenditure on education relative to GDP (%)		:	:	:	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)		1.23	0.37	0.36	0.37	0.32	:
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	:	:	:	:
Percentage of households who have internet access at home (%)		:	55.8e	63.6e	67.5e	69.8e	70.6e

<b>Environment</b>	Note	2006	2013	2014	2015	2016	2017
*Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)		82.5	56.3	54.6	57.6	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2010 constant prices)		:	306.4	294.7	301.2	280.6	281.5p
Electricity generated from renewable sources relative to gross electricity consumption (%)		36.4	72.3	52.2	43.1	54.4	31.6
Road share of inland freight transport (based on tonne-km) (%)	11)	28.5	100.0b	100.0	80.8	58.5	39.0

<b>Energy</b>	Note	2006	2013	2014	2015	2016	2017
Primary production of all energy products (thousand TOE)		629	762	692	716	660	631
Primary production of crude oil (thousand TOE)		0	0	0	0	0	0
Primary production of solid fuels (thousand TOE)		330	372	364	390	308	324
Primary production of gas (thousand TOE)		0	0	0	0	0	0
Net imports of all energy products (thousand TOE)		518	234	291	306	343	418
Gross inland energy consumption (thousand TOE)		1 152	996	975	1 030	988	1 038

Gross electricity generation (GWh)		2 952	3 945	3 173	3 003	3 141	2 483
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<b>Agriculture</b>	Note	2006	2013	2014	2015	2016	2017
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)	12)	517	223b	230	231	256p	256p
Livestock numbers: live bovine animals (thousand heads, end of period)	13)	115	89	94	92	89p	87p
Livestock numbers: live swine (thousand heads, end of period)	13)	13	21	22	25	56p	25p
Livestock numbers: live sheep and live goats (thousand heads, end of period)	13)	:	220	237	224	223p	219p
Raw milk available on farms (thousand tonnes)	14)	178	182	192	183	181p	182p
Harvested crop production: cereals (including rice) (thousand tonnes)		:	8	8	7	8p	8p
Harvested crop production: sugar beet (thousand tonnes)		:	0	0	0	0	0
Harvested crop production: vegetables (thousand tonnes)	15)	:	42	44	51	43p	42p

: = not available

b = break in series

e = estimate

p = provisional

s = Eurostat estimate

u = low reliability

\* = Europe 2020 indicator

\*\* = Macroeconomic Imbalance Procedure (MIP) indicator

\*\*\* = The government deficit and debt data of enlargement countries are published on

an "as is" basis and without any assurance as regards their quality and adherence to ESA rules.

#### Footnotes

- 1) 2006: consumer price index.
- 2) 2006: based on balance of payments manual edition 5 (BPM5).
- 3) National definition of M0, comprised of bank deposits with the CBM (settlement account and reserve requirement account) and the estimated amount of cash in circulation.
- 4) National definition of M11, comprised of M0 plus demand deposits by the non-banking sector held with banks and the CBM, in EUR and other currencies, plus the Central Government's demand deposits in EUR and other currencies.
- 5) National definition of M21, comprised of M11 plus the non-banking sector's time deposits with banks, in EUR and other currencies, plus the Central Government's time deposits in EUR and other currencies.
- 6) Loans include total banks' loans granted to non MFI residents and other claims (factoring and forfeiting, claims on outstanding bills of acceptance, guarantees and bills of exchange).
- 7) Weighted average effective interest rate, outstanding amounts.
- 8) Calculated from indices with the previous year as the reference year (= 100).
- 9) Data of NGOs are excluded. Number of employees in the public sector as a share of the total number of persons employed.
- 10) Comprises data of private companies or enterprises, entrepreneurs and private households. Number of employees in the private sector as a share of the total number of persons employed.
- 11) 2006: total freight traffic (national territory and international transport).
- 12) 2006: based on the reports of agricultural organisations (agricultural enterprises and cooperatives) engaged in crop production and estimates for private agricultural

holdings.

- 13) Including livestock held by enterprises, cooperatives and households.
- 14) In million litres. Net quantity, from enterprises, cooperatives and households.
- 15) 2013-2015: including the production of kitchen gardens.