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**Montenegro 2016 Report**

*Accompanying the document*

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

**2016 Communication on EU Enlargement Policy**

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## **1. INTRODUCTION<sup>1</sup>**

### **1.1. Context**

The Stabilisation and Association Agreement between Montenegro and the EU entered into force in May 2010. The European Council granted the status of candidate country to Montenegro in December 2010. Accession negotiations were opened in June 2012<sup>2</sup>. EU and NATO accession are the two key foreign policy priorities of Montenegro. In December 2015, Montenegro received an invitation to join NATO. The relevant Accession Protocol was signed in May 2016 and is currently being ratified by NATO members.

Four negotiating chapters were opened during the reporting period. 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 will be key for further progress in the negotiations overall.

### **1.2. Summary of the Report**

Concerning the **political criteria**, a political agreement on the organisation of free and fair elections led to the establishment of a "government of electoral trust" in May. Despite persisting polarisation of the political environment, this has demonstrated the capacity to reach compromises between the government and parts of the opposition. The parliamentary elections of October 2016 were conducted under a substantially revised legal framework. Despite the technical delays and difficult relationships between responsible institutions, overall the election preparations were conducted in a more participatory and transparent manner. The elections were held in a competitive environment and characterised by general respect for fundamental freedoms. The relevant national authorities are expected to swiftly and transparently investigate alleged procedural irregularities, the arrests made and the temporary closure of two mobile communication platforms. There has been no political follow-up to the alleged abuse of public funds for party political purposes ("audio recordings affair").

Montenegro is moderately prepared with the reform of its public administration. Some progress has been made, notably with the adoption of the public administration reform strategy 2016-2020, the public financial management reform programme, the entry into force of the new law on salaries and the simplification of administrative procedures. However, strong political will is needed to effectively address the de-politicisation of public service and right-sizing of the state administration.

The judicial system is moderately prepared. During the reporting period, Montenegro made some progress in this field. The capacity of the Judicial and Prosecutorial Council has improved. However, the new legislative framework for increasing the independence, accountability and professionalism of the judiciary, as well as the code of ethics, have not yet been fully implemented. Measures to reduce the number of pending cases and the total length of proceedings need to continue.

Montenegro has achieved some level of preparation in the fight against corruption. Corruption remains prevalent in many areas and continues to be a serious problem. The Anti-Corruption

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<sup>1</sup> This report covers the period from October 2015 to September 2016. 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. As a rule, legislation or measures which are under preparation or awaiting parliamentary approval have not been taken into account.

<sup>2</sup> To date, 24 negotiating chapters have been opened, of which two have been provisionally closed.

Agency started its work in 2016. The process of institution building is largely complete. All institutions should demonstrate a more proactive attitude to fulfilling their mandate. Despite some further steps taken, the track record both on successful investigations and convictions, in particular in high-level corruption cases, and on prevention of corruption remains limited. Montenegro needs to increase the capacity to carry out financial investigations and establish track records of seizure and confiscation of criminal assets.

Montenegro has achieved some level of preparation in the fight against organised crime. Some progress was made, notably on strengthening the legal, regulatory and institutional framework. Efforts should continue to develop the track record in organised crime cases, especially as regards trafficking in human beings and money laundering where results are limited. The number of suspicious bank transactions detected remains low.

Montenegro completed several legislative reforms to further align with the EU and international human rights standards and ensure that adequate mechanisms are in place to protect vulnerable groups from discrimination. Implementation of the legislation remains weak. Amendments to the overall legislative framework, to ensure a coherent sanctioning policy for human rights violations, have not been adopted yet. Institutional capacity needs to increase further. The Roma minority remains the most vulnerable and most discriminated-against community in various areas of life.

Montenegro has achieved some level of preparation in the area of freedom of expression, but no further progress was made in the past year. The number of defamation cases remains high, which points to weak self-regulation mechanisms, as well as to challenges in understanding the role of the media. Montenegro still needs to achieve overall alignment with the case-law of the European Court of Human Rights. The premises of one commercial media company were damaged and several journalists were physically and verbally assaulted and threatened during anti-government protests in October 2015. There has been no progress in the resolution of cases of attacks on journalists. Transparency and non-discrimination in state advertising in the media should be ensured. The revised Code of Ethics for Journalists must be effectively and uniformly applied across the media community.

Montenegro continued to play a constructive role in regional cooperation. It ratified its border agreements with Bosnia and Herzegovina and with Kosovo\*.

As regards **economic criteria**, Montenegro is moderately prepared in developing a functioning market economy. Some progress was made to strengthen the functioning of the financial and labour markets, as well as on improving the business environment. Investments in infrastructure and tourism support economic activity. However, rapidly rising public debt and high fiscal deficits, together with high external imbalances and high unemployment are of concern. The combined effects of large-scale public infrastructure investments and several new expensive social expenditure programmes challenge fiscal sustainability. Immediate corrective measures are required, as called for by the ERP policy guidance. Other problems to be tackled include high external imbalances and low labour market participation and still low credit growth amid high impaired bank loans.

Montenegro is moderately prepared in its capacity to cope with competitive pressure and market forces within the Union. Some progress was achieved in improving the quality of infrastructure, the energy market and the digitalisation of the economy. SMEs support is modest but developing gradually. However, substantial efforts are still required to develop human capital and a competitive export-oriented industry.

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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.

Concerning its **ability to assume the obligations of membership**, important work on alignment and preparation for the implementation of the *acquis* has taken place and Montenegro is moderately prepared in many chapters, such as the free movement of goods, public procurement, statistics as well as justice, freedom and security. Montenegro has continued to align with all EU common foreign and security policy positions and declarations. Montenegro is at an early stage of preparation regarding fisheries and budgetary and financial provisions and at some level of preparation in the area of environment and climate change. Good progress has been made in the areas of free movement of goods, agriculture and rural development, food safety, veterinary and phytosanitary policy, energy, environment and climate change, customs union, external relations and financial control. Looking ahead, Montenegro should focus in particular on competition policy and economic and monetary policy. Strengthening the administrative capacity for ensuring the application of the *acquis* remains a substantial challenge for Montenegro.

## 2. POLITICAL CRITERIA

### 2.1. Democracy

#### Elections

The parliamentary elections of October 2016 were conducted under a substantially revised legal framework. Despite the technical delays and difficult relationships between responsible institutions, overall the election preparations were conducted in a more participatory and transparent manner. The elections were held in a competitive environment and characterised by general respect for fundamental freedoms. The relevant national authorities are expected to swiftly and transparently investigate alleged procedural irregularities, the arrests made and the temporary closure of two mobile communication platforms.

The parliamentary elections of October 2016 were prepared by the "Government of Electoral Trust" and conducted under a substantially revised legal framework: including new provisions on voter registration and identification, gender equality and political parties and electoral campaign financing, among others. The State Electoral Commission (SEC) received and registered 17 candidate lists to contest the elections. The preparatory phase was marked by difficult relationships between institutions in charge for the preparation of the elections, most notably Ministry of Interior and SEC, disagreements around the single voters list and concerns about the capacities of SEC and the Anti-Corruption Agency to fulfil their mandate in accordance with the new electoral legislation. Despite delays and technical difficulties the preparatory phase, supervised by the "parliamentary committee for monitoring the implementation of the laws and other legislation relevant for building trust in the electoral process", has been conducted in a more transparent manner, than previous elections.

The elections were observed by national and international observers, including the OSCE/ODIHR Monitoring Mission, who concluded that the conduct of the Election Day itself proceeded in a calm and orderly manner, with few cases of procedural irregularities observed. The voters' turnout was 73.2 %, almost 3 % higher than in the previous parliamentary elections. None of the political contenders won an absolute majority in the parliament. Of the 81 seats, the seat allocation, in accordance of the results released by the State Electoral Commission, is as follows: DPS 36, DF 18, Key coalition 9, Democratic Montenegro 8, SDP 4, Social Democrats 2, Bosniak Party 2, Croatian Civic Initiative 1 and Albanians Decisively Coalition 1.

While the SEC has met the relevant deadlines and put in place all the necessary arrangements, deficiencies were clearly visible in terms of lack of collective leadership, efficient management and transparency, as well as politicization.

The Anti-Corruption Agency focused its activities in the pre-election period on the control in the area of political party and electoral campaign. During the campaign period several proceedings have been initiated against parties for not complying with their obligations under the campaign finance legislation. However, The Agency's capacity in this area needs to be further strengthened and the Agency needs to become more proactive in checking the data submitted by public institutions and political organisations (see also *chapter 23 – Judiciary and fundamental rights*).

Despite the progress made in the recent years, the electoral legislative and institutional framework requires further alignments with the international standards.

Local elections in the Municipality of Tivat were held in April, and the new system of electronic identification of voters applied for the first time. Four opposition parties boycotted the elections. Together with the October parliamentary elections local elections were held in Kotor, Budva, Andrijevica and Gusinje. The results of local elections in several locations have been challenged.

The involvement of women in politics remains low, at all levels, including in the electoral administration. There are no women among the political party leaders in the country and very few in the parties' leaderships, as evident during the recent electoral campaigns and the earlier negotiations for the government of electoral trust. Electoral lists complied exclusively with the minimum requirements in term of gender equality. Following the preliminary election results the number of women Members of Parliament (MPs) is expected to increase to 18, from the previous 15, now accounting for 22 %.

There were some developments in judicial follow-up of the alleged misuse in 2012 of public funds for party political purposes (the ‘audio recordings affair’), but it has not been completed. To date, there has been no political follow-up.

## **Parliament**

The party-political scene is fragmented. Parliament was at times disrupted by partial or full boycotts before resuming normal functioning after an agreement between government and parts of the opposition.

Overall, the political scene, especially the opposition, is fragmented, with a multitude of small political parties.

Partial or full boycotts by parts of the opposition presented a key challenge to parliamentary work. Following intensive talks, an agreement on power sharing with a view to fostering confidence in upcoming elections was signed in April, and the law implementing the agreement was adopted in May (see under *Governance*). Following these positive developments, parts of the opposition returned to parliament. As part of the preparations of the October elections, a parliamentary committee for monitoring the implementation of the laws and other legislation relevant for building trust in the electoral process was set up in July.

The protests organised by part of the opposition since September 2015 continued during the reporting period. Results of investigations into all incidents of violence and allegations of excessive use of force by the police during the October 2015 opposition protests are still pending. Subsequent protests were, overall, without incident. In December, parliament waived

the immunity of three opposition MPs, to allow prosecution for their actions during the protests (for incitement to violence with the aim of changing the constitutional order).

Legislative activity decreased over the reporting period due to boycotts by the opposition parties. The backlog of laws pending in parliament, was reduced after the return of the opposition to the parliament. The *acquis* alignment process requires close and structured dialogue between the government and parliament. The parliament regularly takes the initiative in presenting laws and amendments, and voting does not always correspond to government priorities. Although this reflects parliament's seriousness in discharging its democratic duties, it also raises the need for additional responsibility for and scrutiny of legislation, especially EU related legislation.

In line with the law on the prevention of corruption, parliament's integrity plan was adopted in March. One report on an alleged breach of the code of ethics was submitted to the human rights committee. The formal procedure for acting upon this complaint is pending. The right to file complaints, limited to MPs and parliamentary bodies, should be extended to the public, the media and other external stakeholders. There is also room for improvement in other areas, including MPs' obligation to declare private interests, the statute of limitations and the range of penalties. No progress has been made on increasing parliament's capacity to follow up on conclusions and recommendations adopted in oversight hearings.

Parliament continued to exhibit a high level of transparency. It continued to reply to all access to information requests. No action was taken to establish procedures for addressing citizens' petitions and complaints. Administrative and expert capacity needs further improvement. Additional premises should be provided for parliament's administrative services. Parliament's premises are now accessible to persons with disabilities.

## Governance

The establishment of the government of electoral trust has demonstrated Montenegro's capacity to overcome a difficult domestic political situation. Transparency and stakeholder participation should be further strengthened. Local public finances remain to be consolidated and the budgetary positions, transparency, efficiency and accountability of local self-government strengthened.

The government won a vote of confidence in parliament in January, following a break with the junior partner in the governing coalition. This led to intensive discussions among political parties and to the signing of an agreement on holding credible elections. The establishment of the 'government of electoral trust' in May, with the participation of opposition parties, was a way to bring the political stalemate to an end. In line with the agreement, several cabinet posts were allocated to candidates suggested by (former) opposition parties.

In addition to EU accession, Montenegro's key foreign-policy priority during the reporting period was securing an invitation to join NATO, which Montenegro received in December 2015. The Accession Protocol was signed in May.

The 2016-2018 programme for Montenegro's accession to the EU sets out what the country needs to do in relation to accession negotiations in that period, and how to coordinate the various institutions involved in the process. Overall, coordination, and the transparency of the process, is satisfactory, although the inclusion of stakeholders can be further improved.

In December, parliament amended the law on the territorial organisation of Montenegro, the law on local self-government, the law on the capital city and the law on local self-government financing. Local self-government units are not financially self-sufficient. Despite plans to rationalise them, two new municipalities were established. Overall, both the financial

situation of local self-government and the public financial management of local self-government entities remain unsatisfactory.

To date, 21 out of 23 units of local self-government have adopted action plans to combat corruption.

### Civil society

Some progress was made in improving cooperation between the government and civil society organisations (CSOs). Civil society's active role in the accession process is now formally acknowledged, but full participation remains to be achieved. Additional resources and transparency are needed in government structures and procedures for collaboration with and consultation of CSOs. It is a matter of concern that smear campaigns and intimidation attempts continued against certain CSO activists. Conditions conducive to voluntary work, civic activism and social entrepreneurship need to be created.

An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by state institutions. Montenegro still needs to develop an overall societal approach, institutional culture and legal framework that facilitate grassroots activities by civil society, and to deal constructively with criticism of state institutions. The priorities identified in the strategy for development of non-governmental organisations (NGOs) 2014-2016 on transparent procedures for free concessions of public spaces to NGOs have not been addressed.

Relations between civil society and the government have occasionally been overly adversarial and characterised by distrust, especially on the political situation, the rule of law and fundamental rights. NGOs participate in working groups, including for accession negotiations, but are dissatisfied with their level of involvement in policy-making and access to information. The government needs to find a balance between the requirements of efficient policy-making and the need for transparency and inclusiveness of civil society.

In the past, some civil society activists had been targeted on a personal basis by the media through smear campaigns. There have also been instances of intimidation attempts against civil society organisations. The Council for the Development of NGOs, comprised of government and NGO representatives, needs to improve its capacity and become more proactive and effective in influencing government decisions directly related to civil society.

Montenegro needs to establish a sustainable and efficient system of public funding for CSOs and an appropriate institutional and legal framework. Amendments to the law on public gatherings have been adopted, providing a clearer and more favourable framework on freedom of association, in line with European standards. Amendments to the law on NGOs are pending. The necessary by-laws, which will determine the procedure for funding, monitoring, evaluation and audit of NGO projects, also need to be adopted. Moreover, the law on gaming, currently the largest source of public financing for CSOs, is not being implemented properly and the amount allocated to CSO projects has not been in line with legal requirements.

## 2.2. Public administration reform

Montenegro is **moderately prepared** with the reform of its public administration. **Some progress** has been made, notably with the adoption of the public administration reform strategy 2016-2020, the public financial management reform programme, the entry into force of the new law on salaries and the simplification of administrative procedures. However, strong political will is needed to effectively address the de-politicisation of public service and

right-sizing of the state administration (recommended last year, and still needed). In the coming year, Montenegro should in particular:

- allocate the appropriate budgetary resources to the 2016-2020 PAR strategy, and start to implement and regularly monitor it in close coordination with the 2016-2020 public financial management reform programme;
- improve the quality of regulatory impact assessment and ensure public consultations are conducted in line with the existing legislation;
- further amend the civil service framework in order to fully ensure merit-based recruitment, an improved career path across the public service at national and local self-government level, and objective dismissal procedures for senior managers.

### Policy development and coordination

The legal framework and institutions are in place to ensure a coherent policy-making system, including for European integration. However, policy coordination remains weak, more focused on formal and procedural issues than substance. Medium-term policy planning is fragmented and is not given priority by the government. There are a number of overlapping strategies without fully developed budget planning; this jeopardises implementation and hinders the relevant reforms. More structured dialogue between the government and parliament on policy priorities, and on *acquis* alignment, is needed. Montenegro's programme for accession to the EU for 2014-2018 is revised every year; the last update was adopted in January.

Inclusive and evidence-based policy and legislative development is only partially ensured. The number of civil servants working on policy development and analysis is still limited. Public consultations on legislative proposals are regulated by law; however, in practice, they are often quite formalistic and timelines are too short for effective civil society input. Impact assessments are not systematically performed, other than budget impact assessments. The quality of regulatory impact assessments is minimal and they are often done too late in the legislative process.

With regard to public scrutiny of government work, monitoring and parliamentary scrutiny are often quite weak.

### Public financial management

A multiannual public financial management (PFM) reform programme and action plan was adopted in December 2015, designed to address the main weaknesses identified and improve the functioning of the budget system. A coordination group has been set up to manage and monitor progress in different areas. Its priorities are the development of a stronger medium-term budget framework, improved programme budgeting, better planning of capital projects and enhanced debt management, upgrading of the tax and customs administration, further alignment of public procurement with the EU *acquis* and development of an e-procurement system, improved public internal financial control and greater transparency in financial reporting and accounting.

As concerns other ongoing reforms, the law on the budget was adopted in 2015 in accordance with procedures and timeframes laid down in the law on the budget and fiscal sustainability. Financial management and control capacity was strengthened and internal auditors trained. A strategy for development of public procurement was adopted (see *chapter 5*), the State Audit Institution (SAI) improved its capacity for performance audits (see *chapter 32*), and progress was made on the IT system for taxation (see *chapter 16*).

The law on the budget and the law on final statements of accounts are published on the website of the Ministry of Finance. However, budget transparency could be improved: the budget could be made more understandable and accessible to the public by improving its presentation and readability, and that of monthly and quarterly reports. The PFM reform programme includes specific action to improve transparency, e.g. on multiannual commitments and capital projects. Parliament's capacity for budget oversight needs to be strengthened and MPs given enough time to process budgetary information.

#### Public service and human resources management

The law on civil servants and state employees regulates the public service. Even though the law establishes merit-based recruitment and promotion as a principle, loopholes in the organisation of the selection process allow for arbitrary selection at all levels. Montenegro has made little progress in ensuring merit-based recruitment for senior civil servants, though standard guiding questions for interviews have been drafted, and a competency framework for the selection process is envisaged. In practice, non-objective criteria have been used in selections and dismissals, which have resulted in a considerable number of appeals. The efficiency of both internal and external recruitment procedures remains a matter of concern due to the low number of candidates. Dismissal of senior managers is allowed after one negative performance appraisal or if their position is abolished by an internal reorganisation, creating the risk of abusive practices.

Human resources management units are in place across the state administration. However, they are generally weak and lack competent staff, and they focus more on legal compliance than management of human resources. The central personnel register is not updated regularly, but plans to link it to the salary system should prompt improved compliance levels.

As concerns remuneration of civil servants, a new law on public sector pay was adopted in February. The law is based on job classifications; it establishes better control of salaries, corrects inequalities, and increases transparency and fiscal accountability.

Professional development is not consistently provided or monitored for any category of civil servants. There is also no clear link between performance appraisal and career development for civil servants.

Integrity in public service is promoted through the 2015 code of ethics for civil servants. In January the Anti-Corruption Agency started monitoring the preparation/implementation of the integrity plans that each service must draw up.

#### Accountability of the administration

The way the state administration is organised in Montenegro does not ensure effective lines of accountability. There has not been sufficient control over the creation of new institutions, and so there are a lot of small institutions, many with less than ten staff. Some report to ministries, some to the council of ministers and some even to parliament. The managerial autonomy and accountability of the heads of administrative bodies reporting to ministries remains weak and there is still very little delegation of powers within institutions (*see chapter 32*). Those bodies that are under the council of ministers and parliament are not efficiently supervised either.

Citizens' right to good administration is regulated and subject to internal and external oversight mechanisms, including the Ombudsman (*see Governance*). Right to access public information is regulated by the law on free access to public information. It lacks effective monitoring and supervision. The proportion of requests refused by the administration fell from 24 % in 2014 to 18 % in 2015. The 2016 budget of the Agency for the Protection of Personal Data and Access to Information was increased by 50 %. This is expected to improve

the Agency's capacity to deal with complaints received and better monitor and supervise proactive disclosure of public information, e.g. on websites. Administrative silence in the public administration is still an issue and the major cause of complaints from the public.

The legal framework for the right to administrative justice will be enhanced by the newly amended law on administrative procedures (see below under *service delivery*). A law on administrative disputes was adopted on 30 July. The right to seek compensation is not well understood by the general public, as Montenegro does not have a specific law on public liability.

#### Service delivery to citizens and businesses

The government is committed to a more user-oriented administration, and it regularly reports on the implementation of the 2014 law on e-governance, which has set specific deadlines for development of e-services and interoperability. The main electronic registers (e.g. the central population register, the business register and the property register) are now in place, but not yet interoperable. Satisfaction surveys on government services are not yet regularly conducted.

Simplification of administrative procedures is ongoing. Sectoral laws containing over 150 special procedures are being gradually brought into line with the law on administrative procedures, but a substantial workload remains. So far, amendments to 80 laws have been drafted, and they are in various stages of adoption. An amendment to the law on administrative procedures was adopted on 30 June, however the government decided to postpone its implementation until 1 July 2017.

#### Strategic framework for public administration reform

On 28 July, Montenegro adopted its 2016-2020 public administration reform strategy, by means of a consultative and transparent process. There is political support for the reform, which was also declared a priority in the government's structural reform plan. Consistent political support will be needed to implement the strategy, e.g. for measures to rationalise and right-size the administration, while ensuring capacity for European integration. Montenegro needs to assure the financial sustainability of the strategy by allocating the appropriate budget for implementation both in the medium-term expenditure framework and in the annual budgets.

### **2.3. Rule of law**

#### **Functioning of the judiciary**

Montenegro's judicial system is **moderately prepared**. During the reporting period, Montenegro made **some progress** in this field. Last year's recommendations have been partially met; in particular, the capacity of the Judicial and Prosecutorial Council has improved. The new legislative framework for increasing the independence, accountability and professionalism of the judiciary as well as the code of ethics, have not yet been fully implemented. Measures to improve efficiency of judiciary need to continue.

In the coming year, Montenegro should in particular:

- strengthen the independence and professionalism of the judiciary by fully implementing the new recruitment, professional appraisal and promotion system;
- strengthen the accountability of the judiciary by developing a track record of implementation of codes of ethics and of the new disciplinary systems for judges and prosecutors;

→ ensure better human resources management to rationalise the judicial network and improve capacity building.

### Strategic documents

Montenegro's action plan for chapter 23 outlines comprehensive judicial reforms. It is monitored by the chapter 23 inter-institutional working group, which includes representatives of civil society.

In addition, a judicial reform strategy for the period 2014-2018 and accompanying action plan are being implemented. The strategy reflects and complements the main reform priorities identified and addressed by the action plan for chapter 23. A mechanism for monitoring the implementation of the strategy is in place.

### 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.

The capacities of both Councils and their secretariats have been strengthened, but they continue to lack strategic planning for budget and human resources. While access to decisions and information of the Judicial Council continued to improve, the operation of Prosecutorial Council still lacks transparency.

### Independence and impartiality

Following the 2013 amendments to Montenegro's constitution, reforms aimed at strengthening the independence of the judiciary, by formally reducing political influence on the appointment of high-level judicial and prosecutorial offices, have continued. However, concerns remain about attempts at political interference.

The new misdemeanour court system became operational in November 2015. The procedure for reappointing state prosecutors was finalised in December 2015 in line with European standards.

Judges and prosecutors have permanent tenure and decisions on their dismissal can only be taken by the Judicial or Prosecutorial Councils respectively. They enjoy functional immunity, except for crimes committed in the performance of official duties. Under the criminal code, undue interference in the work of judicial officials is punishable by imprisonment. So far, there has been no case where these provisions have been invoked.

The principle of random allocation of cases is guaranteed by the law on courts and implemented automatically through the judicial information system, the PRIS, although for very small courts there are certain limits. In 2016, a new procedure was introduced, assigning cases to judges as soon as they are submitted. The Supreme Court practice of reallocating large numbers of cases between courts, with the aim of reducing the backlog in the most overloaded courts, risks interfering with the right to a lawful judge.

Failure to seek recusal in circumstances where it is mandatory constitutes grounds for disciplinary action. Rules for withdrawing allocated cases are set out in the law on courts.

### Accountability

Codes of ethics for judges and prosecutors are in line with the relevant European and international standards and linked to mechanisms for complaints from members of the public. Compliance is monitored by specialised bodies in the Judicial and Prosecutorial Councils. Some efforts were made to raise public awareness of the Code of Ethics. Specialised bodies in

the Judicial and Prosecutorial Councils are also responsible for the system of disciplinary accountability. However, their track record of enforcing disciplinary accountability and the code of ethics is limited. The Councils' Decisions in these fields do not give sufficient reasons.

All public officials, judges and prosecutors have an obligation to declare their assets annually and to report on possible conflicts of interest.

#### Professionalism and competence

The power to recruit, appoint, transfer, promote and dismiss judges and prosecutors lies with the Judicial and Prosecutorial Councils respectively.

Legislation adopted in February 2015 introduced a single, countrywide recruitment system for judges and prosecutors, and a new system of promotion based on periodic professional assessment. Necessary secondary legislation has been adopted. Both systems are designed to be transparent and merit-based, and to seek to apply objective criteria. They have not yet been fully implemented.

#### Quality of justice

The Judicial Training Centre is an independent body that provides initial and in-service training to judges, prosecutors and legal advisers. While its budget for 2016 has increased, it continues to depend on donor support, for certain specialist training. Its administrative capacity needs to be considerably strengthened and adequate premises must be secured without delay. Montenegro has the observer status in the European Judicial Training Network.

The 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. It is also not backed by a clear institutional framework and remains under-developed with regard to the prosecution service. The system also facilitates the collection of comprehensive statistics, but their reliability continues to raise concerns. A new IT strategy for replacing the PRIS was adopted in June 2016. Its implementation needs to be backed with adequate financial and human resources and clear allocation of responsibilities.

Final court decisions are publicly accessible online. The law on courts provides for mechanisms to ensure that court rulings are consistent.

The judiciary's current budget of EUR 34.6 million represents 1.63 % of the national budget and 0.89 % of GDP. The number of judges and prosecutors in Montenegro is above the EU average in relation to the size of the population, as is the percentage of the budget spent on staff. Spending on salaries limits the scope for other expenses such as investment in ICT or free legal aid.

Alternative dispute resolution is available through court settlement, arbitration and mediation, but it is not systematically used.

#### Efficiency

In general, the courts are managing to cope with the influx of cases. However, the overall length of proceedings from initiation to final judgment and the backlog of cases before some courts remain a cause for concern. Also enforcement of civil and administrative decisions remains problematic. Despite further reduction of the number of cases as a result of the introduction of the bailiff system in 2014, in particular the backlog of the old enforcement cases is still considerable. There is a need for further rationalisation of the judiciary and better

human resources management. Reforms in these areas should draw on data and conclusions of a proper needs analysis, and a cost-benefit analysis of the past and planned reforms.

### Fight against corruption

Montenegro has achieved **some level of preparation** in the fight against corruption. Despite **some progress**, corruption remains prevalent in many areas and continues to be a serious problem. Good progress was made on meeting last year's recommendation on the establishment of the Anti-Corruption Agency, which started work on 1 January 2016. The process of institution building is in general at an advanced stage. All institutions should demonstrate a more proactive attitude to fulfilling their mandate. Some progress was made on the recommendation on establishing a track record in the area of repression of corruption, in particular high-level corruption, but the track record both on successful investigations and convictions and on prevention of corruption remains limited. In addressing the shortcomings outlined below, in the coming year Montenegro should in particular:

- improve the operational capacity of the institutions, so that they are able to fulfil their mandates effectively;
- increase the capacity to carry out financial investigations and establish track records of seizure and confiscation of criminal assets;
- improve track records in the areas of repression and prevention of corruption, including by imposing effective sanctions.

#### Track record

As regards the development of track records in investigation, prosecution and final conviction in corruption cases some results have been reached also in high-level corruption cases. The first final and enforceable judgment in a high-level corruption case was issued in February against a former mayor of Budva. The Special Prosecutor's Office also focused its work on high-level cases. It started investigations in several cases involving, among others, former mayors, a former President of the State Union of Serbia and Montenegro, and a high-ranking DPS party official. It concluded 18 plea bargain agreements, some of which remain to be confirmed by the court, including the two concluded with the aforementioned former President of the State Union of Serbia and Montenegro.

Financial investigations have started being used in corruption cases but are still not systematic. Confiscation of assets has been ordered in two corruption cases.

As regards political influence on law enforcement and judicial officials, members of the executive and the legislative branch should not interfere in the independent functioning of the judicial system.

In respect of prevention of corruption, some progress has been made in detecting irregularities in the areas of incompatibility of functions and asset declarations, while the number of cases remains limited in the areas of conflict of interest, political party financing, and codes of ethics. In all areas of prevention of corruption, sanctions provided for by the law have not been applied effectively. The practice among misdemeanour bodies of imposing low penalties, in most cases below the statutory minimum, counteracts enforcement of the rules. The Anti-Corruption Agency should use its power to directly issue misdemeanour penalties. The Agency must also ensure effective investigation of potential whistle-blower cases, adequate whistle-blower protection, and demonstrate a more proactive attitude in awareness rising in this area.

## Institutional framework

On the prevention of corruption, an independent Anti-Corruption Agency with administrative investigation powers was set up on 1 January 2016. The Agency has taken over the staff and responsibilities of the Commission for the Prevention of Conflicts of Interest and the Directorate for Anti-Corruption Initiative, which both ceased to exist. Staff recruitment remains to be fully completed. The necessary expertise for all areas of the Agency's remit needs to be ensured, including through specialised training.

On law enforcement, the institutional and operational capacity of prosecutors, judges and police to fight corruption still needs improvement. The prosecution service has the lead in criminal investigations. However, cooperation between the police and the prosecution in pre-trial investigations needs to improve in practice. The police and prosecution service lack financial investigation skills. This needs to be addressed through targeted specialised long-term training as a matter of priority.

The new Special Prosecutor's Office for the fight against corruption, organised crime, war crimes, terrorism and money laundering was set up in July 2015. By June 2016 all special prosecutors had been appointed. The formation of the Special Police Unit supporting the Special Prosecutor's Office is ongoing, but the unit is not yet working to full capacity. To carry out its mandate effectively, the Special Prosecutor's Office needs to be provided with all the human and material resources it requires.

Since December 2015, the State Property Administration has become an independent body and includes a department in charge of confiscated assets. The authorities should ensure that law enforcement bodies are fully empowered to act effectively and impartially when investigating corruption allegations.

## Legal framework

Passive and active corruption are punishable offences under the criminal code, which lays down sentences ranging from three months to 15 years. Montenegro is a party to all relevant international anti-corruption conventions. Illicit enrichment has not been made a criminal offence.

Secondary legislation necessary to implement the anti-corruption legislative framework is in place. In December 2015 a new law on customs service was adopted which aims to strengthen the prevention of corruption and integrity of customs officers.

## Strategic framework

The action plan for chapter 23 outlines comprehensive reforms to prevent and combat corruption. It is monitored through the chapter 23 inter-institutional working group, which also includes representatives of civil society. Sectoral action plans for some areas particularly vulnerable to corruption, such as public procurement, privatisation, urban planning, education, health care, local government and police, have had little impact.

An operational document which includes non-implemented measures contained in the expired 2010-2014 national strategy for the fight against corruption and organised crime and in the relevant 2013-2014 action plan on areas vulnerable to corruption was adopted in July 2016.

## **Fight against organised crime**

Montenegro has achieved **some level of preparation** in the fight against organised crime. **Some progress** was made, notably on strengthening the legal, regulatory and institutional framework. Little progress was made on carrying out last year's recommendations. Its track record on organised crime remains limited in the fields of anti-money laundering and

trafficking in human beings. It needs to consolidate its track record on the seizure and confiscation of criminal assets, which remain very low. Inter-agency cooperation has only marginally improved. In the coming year, Montenegro should in particular:

→ establish a track record of investigations, prosecutions, final convictions, seizures and confiscations in organised crime cases, with strong focus on those crimes where results are still lacking, such as money-laundering and trafficking in human beings;

→ ensure stronger inter-agency cooperation between recently established institutions (the Special Prosecutor's Office and the new specialised police units), the administration for the prevention of money laundering and terrorism financing, the central bank, the tax authorities and the customs administration;

→ complete the police reform, by ensuring a centralised recruitment process, with a transparent and merit-based entrance exam.

### Track record

Montenegro's initial track record of investigations, prosecutions and convictions in organised crime cases has been mostly developed in the fields of drugs, smuggling of migrants, cigarettes, weapons, and cybercrime. No progress was reported as regards cases of money laundering or trafficking in human beings, partly for the lack of consolidated case-law. The identification and protection of victims of trafficking also remains a persistent concern in the country. The lack of understanding of international human rights standards and case-law in this area continues to affect the performance of the judiciary.

Financial investigations are still not systematically launched in parallel with regular investigations, especially in lower-level prosecutions. On anti-money laundering action, despite additional specialised training and other measures, no new cases were brought to court; reporting of suspicious bank transactions remains low compared to reporting of cash payments. These weaknesses related to addressing effectively various types of financial and economic crimes need to be remedied.

Large quantities of cigarettes continue to be declared transiting through the Port of Bar destined to third countries, including to certain destinations considered as suspect.

### Institutional and operational capacity

Since 2013 Montenegro has in place a system of prosecutor-led investigations but practical problems in coordinating and exchanging information between the law enforcement and judicial structures, though they have improved, have not yet entirely been resolved. This is one of the major shortcomings affecting results.

Efforts are being made to gradually foster further specialisation in the Ministry of Interior and the police in particular. Changes aimed at improving cooperation between the Special Prosecution and the police by establishing a 'double-hatted' Special Unit. Its chief was appointed in April 2016; the unit still has various posts remaining vacant. The intelligence-led policing project has continued.

Since December 2015, the State Property Administration has become an independent body and includes a department in charge of confiscated assets.

An operational agreement with Europol is being implemented and a liaison officer has been posted in The Hague since November 2015. Capacity-building activities, and involvement of Montenegro in the work of Europol, need to continue.

### Legal framework

In recent years, Montenegro's legal system went through several reforms to boost its response to organised crime, while at the same time aligning the national framework with EU and international standards. A specific working group is currently monitoring the broad range of changes to the system and their impact on policies and enforcement. Future amendments to the law on internal affairs should, in particular, focus on the single entry point and on transparent and merit-based recruitment to increase the professionalism of the police, including by reconsidering the role and position of the Police Academy.

### Strategic framework

On the basis of the intelligence-led policing system, Montenegro produced a serious and organised crime threat assessment (SOCTA) in 2014, which was updated in 2015. In addition, Montenegro is implementing a series of sectoral strategies covering areas such as trafficking in human beings, trafficking in arms, anti-money laundering, and trafficking in drugs.

### **Fight against terrorism**

Montenegro has not been seriously affected by the phenomenon of foreign terrorist fighters and radicalisation. The country has amended its criminal code, criminalising the phenomenon of foreign terrorist fighters in line with the relevant UN Security Council Resolution. In October 2016 Montenegro has signed the Additional Protocol to the Council of Europe's Convention on the Prevention of Terrorism. An action plan for fighting money laundering and terrorism financing has been adopted and cooperation with international partners has intensified. Montenegro has adopted a new strategy to combat violent extremism 2016-2018, which complements the national strategy for preventing and combating terrorism, money laundering and the financing of terrorism. Institutional awareness needs to be increased to monitor possible terrorist threats, including radicalised Montenegrin nationals returning from battlefields. There is evidence of approximately 20 nationals on the battlefield in Syria since the beginning of the conflict, of which five reportedly died. Preventive activities in this area need to be strengthened and anti-radicalisation measures implemented. A track record in the area of preventing terrorism financing needs to be developed.

## **2.4. Human rights and the protection of minorities**

### **Overall situation**

Montenegro completed several legislative reforms to further align with the EU and international human rights standards and ensure that adequate mechanisms are in place to protect vulnerable groups from discrimination. Implementation of the legislation remains weak. Amendments to the overall legislative framework, to ensure a coherent sanctioning policy for human rights violations, have not been adopted yet. Institutional capacity needs to increase further. The Roma minority remains the most vulnerable and most discriminated-against community in various areas of life. Last year's recommendations have been partially implemented.

Shortcomings particularly affect the following areas:

- Human rights institutions, including the Ombudsman and the Ministry of Human Rights and Minorities, need to be strengthened further and their knowledge of international and European human rights law and standards increased. The Ministry's capacity to handle and supervise the spending of funds for minorities and religious communities remains limited;
- Implementation of the anti-discrimination framework needs to be more effective, and awareness by the general public needs to increase; lack of a uniform approach and low levels

of penalties for human rights violations continues to create legal uncertainty;

→ Impunity is still an issue of concern in connection with abuses in prisons and by the police. Judges and law enforcement officials' knowledge of European standards and case-law should be improved. Legislative measures to increase police accountability should be considered.

In line with the new reporting methodology, a detailed analysis of freedom of expression as a pilot area follows below. For a detailed analysis of developments on other human rights and the protection of minorities, *see chapter 23 — Judiciary and fundamental rights*. For developments in the areas of trade union rights, anti-discrimination policy and equal opportunities, see also *chapter 19 — Social policy and employment*.

### **Freedom of expression**

Montenegro has achieved **some level of preparation** in the area of freedom of expression. **No progress** was made in the past year and recommendations were only partially implemented.

The number of defamation cases remains high, which points to weak self-regulation mechanisms, as well as to challenges in understanding the role of the media. Montenegro still needs to achieve overall alignment with the case-law of the European Court of Human Rights. The premises of one commercial media company were damaged and several journalists were physically and verbally assaulted and threatened during anti-government protests in October 2015. There has been limited progress in the resolution of cases of attacks on journalists. In addressing the shortcomings, Montenegro should in particular:

- solve older cases of violence against media, including the 2004 murder case and other sensitive ones, review such cases and identify not only the perpetrators but also those who ordered the attacks;
- continue to provide guidance to the judiciary on aligning decisions with the case-law of the European Court of Human Rights on freedom of expression, notably by establishing a pool of specialised first instance judges;
- ensure transparency and non-discrimination in state advertising in the media, including through adequate legislative solutions;
- reinforce the capacity of the self-regulatory bodies.

### Intimidation of journalists

While attacks on journalists and media property were observed during the anti-government protests in September and October 2015, there is no systematic trend of attacks against journalists resulting in threats to life or serious injuries. However, such threats and attacks have occurred in the past, including high profile incidents targeting investigative journalists. The most serious case was the murder of an editor-in-chief in 2004; to date, while one suspect is on trial there is no information as to the instigators of the crime.

An ad hoc commission was set up by the government in 2013 to monitor investigations into cases of violence against journalists. The commission failed to fulfil its tasks partly due to strong polarisation between its government and civil society components: this made it difficult even to adopt joint recommendations. In 2014, it issued recommendations on prioritising cases and accelerating the resolution of prominent cases.

Some of these recommendations were followed up by the government formed in May 2016, notably as regards reinstating a reward for information on the 2004 murder case. The

Commission was re-established in June 2016, with a larger representation of civil society. The parliament formed an ad-hoc committee with a similar mandate. The effectiveness of police protection granted to a journalist and to the property of one media outlet, following the request of another journalist to discontinue the service, needs to be carefully assessed with a view to improving it.

#### Legislative environment

Defamation was decriminalised in 2012, leading to a fall in the number of lawsuits against the media. However, the continuing high number of defamation cases point to weak self-regulation mechanisms, as well as at challenges in understanding the role of the media. To help judges in setting standards for penalties, the Supreme Court has issued guidelines that refer to European Court of Human Rights (ECtHR) case-law. Challenges remain in their implementation. Fines imposed on the media and journalists, although generally in line with ECtHR case-law, should reflect the local context, particularly as regards the amounts. Although not used in practice, articles on insult and damage to reputation and honour should be removed from the criminal code to create a more favourable environment for the work of investigative journalists.

Amendments to the law on electronic media aimed at further alignment with the *acquis* have been adopted.

#### Implementation of legislation/institutions

Some media outlets continue to use occasional smear campaigns against civil society activists and politicians. Recent decisions by the competent court and regulatory bodies against one TV station that targeted civil society activists show that some progress has been made in applying the media law. However, the effectiveness of media self-regulation is hampered by the fact that it is split into different forms, reflecting divisions within the media community. The lack of a uniform approach to penalties in this area suggests that ECtHR case-law is not sufficiently known, despite the guidelines issued by the Supreme Court in 2012.

Weaknesses of the media sector, notably those related to editorial independence and in-depth reporting, polarisation as well as self-regulation were evident also during the recent electoral campaign. The temporary suspension of certain social media mobile telephone communication platforms during the election day raised concerns in relation to alignment with European standards and case-law.

#### Public service broadcaster

Amendments to the law on public broadcasting services, providing more financial independence and sustainability for the public broadcaster RTCG (Radio i televizija Crne Gore), were adopted in July. The editorial independence of RTCG needs to be made a priority, since a well-functioning and truly independent public service broadcaster represents a key aspect of media pluralism. It is essential for RTCG to secure both editorial and financial independence from political influence and to ensure that all management changes are in line with the law.

#### Economic factors

Rules governing transparency of media ownership, including media concentration, are set out in the law on electronic media. Concerns about transparency and non-discrimination in state advertising persist. Some major private media outlets are at risk of bankruptcy due to high tax debts. The precarious economic situation of journalists puts them at risk of editorial interference and possible self-censorship. The fact that many media outlets are not financially sustainable has a negative impact on the quality of reporting and professionalism.

## Professional organisations/professional conditions

Journalists are jointly represented in Montenegro's media trade union; a professional journalists association has been established in July. However, the media community remains highly divided overall. Membership of the Media Self-Regulatory Council is not representative of the entire media community. Dialogue on improving ethical standards in reporting, facilitated by the OSCE, resulted in the adoption of a revised code of ethics for journalists in 2016. It must be effectively and uniformly applied across the media community. The media trade union denounces the poor pay and job insecurity of journalists.

### **2.5. Regional issues and international obligations**

There were no developments in Montenegro's cooperation with the International Criminal Tribunal for the former Yugoslavia. For the handling of domestic war crimes cases, see *chapter 23 — Judiciary and fundamental rights*.

Montenegro still maintains a bilateral immunity agreement with the United States, granting exemptions for US citizens 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 needs to align with the EU position.

Montenegro has continued to cooperate closely with Bosnia and Herzegovina, Croatia and Serbia under the Sarajevo Declaration Process, which aims at 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. Construction of 62 apartments in Niksic has been completed through the regional housing programme and the construction of 120 housing units in Konik, Podgorica, has started. The contract for the construction of a home for the elderly in Pljevlja was signed in April. The tender for the construction of 94 apartments in Berane was also published in April.

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 61, is low but all efforts should be made to ensure identification as soon as possible.

Regional cooperation and good neighbourly relations 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, the Regional Cooperation Council, CEFTA, Western Balkans Six, Adriatic-Ionian Initiative, European Union Strategy for Adriatic and Ionian Region, Central European Initiative, the Regional Initiative for Migration and Asylum, the Igman Initiative and RECOM.

The impetus given through the 'Berlin process' and the Western Balkan Six initiative, notably regarding the EU's connectivity agenda, has continued to foster increased regional cooperation. Building on the results of previous Summits, the June 2016 Paris summit saw further advances on the connectivity agenda but also opened cooperation in new areas, notably through the establishment of the regional youth cooperation office to be established in Tirana. Montenegro needs to implement the connectivity reform measures such as the implementation of the newly signed border crossing agreement with Albania in the transport field or the implementation of the Trans-European Network Regulation with regard to licensing and permitting as well as one-stop shop procedures in the energy field.

Montenegro remained constructively committed to bilateral relations with other enlargement countries and neighbouring EU Member States. Montenegro has concluded a bilateral convention on regional cooperation with Albania, the former Yugoslav Republic of Macedonia and Serbia under Article 15 of the Stabilisation and Association Agreement (SAA), and needs to do the same with other partners with an SAA in force.

Relations with **Albania** continue to be good. In October 2015, Montenegro ratified the agreement on economic cooperation. Albania ratified in June the protocol of accession to NATO of Montenegro.

The border demarcation agreement with **Bosnia-Herzegovina** entered into force in April. An agreement on cross-border supervision was signed in December. Negotiations with Bosnia and Herzegovina are ongoing with regard to the convention on regional cooperation, under Article 15 of the Stabilisation and Association Agreement.

Relations between Montenegro and **Kosovo** remained good. In September 2015, the agreement on police cooperation entered into force. The agreement on cooperation between the Commissions for Missing Persons of Montenegro and Kosovo was signed in October. As a positive step, the border demarcation agreement with Kosovo was ratified by Montenegro in December. There were no developments on the constitutional recognition of the Montenegrin minority in Kosovo.

A business forum on investment opportunities in **the former Yugoslav Republic of Macedonia** and on strengthening economic cooperation between the two countries was held in Podgorica in October 2015.

Relations with **Serbia** remained good. A programme of cooperation between the two countries was signed in September. Regular cooperation in the defence sector has also continued. The Agreement on Cession of Submarines Class 91 was signed in April. There have been no developments on issues related to citizenship rights in the two countries. The demarcation of borders is still pending.

As regards cooperation with **Turkey**, in December the agreement on social security entered into force. In October, a memorandum of understanding was signed to strengthen cooperation on hydropower development in Montenegro between Montenegro, Turkey and Slovenia. Furthermore, a cooperation agreement between the Chamber of Commerce of Montenegro and the Union of Turkish Business and Chambers of Commerce (TOBB) was signed in September 2015. In April, a plan for cooperation on defence was signed by the ministries of defence of the two countries.

Joint work on finding a solution for the border demarcation between Montenegro and **Croatia** is ongoing. In October 2015, the two countries signed a memorandum of understanding on sports. The demarcation of borders is still pending.

In March, the government adopted the draft law on ratification of the Agreement on scientific and technological cooperation with **Italy**. In May, the two countries signed an agreement on cooperation on veterinary and food safety.

### 3. ECONOMIC CRITERIA

Key economic figures	2014	2015
<b>Gross domestic product per capita</b> (% of EU28 in PPS)	41	41
<b>GDP growth (%)</b>	1.8	3.4
<b>Unemployment rate</b> (female; male) (%)	18.0 (17.8 ; 18.2)	17.5 (17.7 ; 17.3)
<b>Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active</b> (female; male) (%)	67.6	68.5
<b>Current account balance</b> (% of GDP)	-15.2	-13.3
<b>Net Foreign direct investment (FDI)</b> (% of GDP)	10.2	17.1

Source: Eurostat

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.

The monitoring of these economic criteria should be seen in the context of the central importance of economic governance in the enlargement process. 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 is **moderately prepared** in developing a functioning market economy. **Some progress** was made to strengthen the functioning of the financial and labour markets, as well as on improving the business environment. Investments in infrastructure and tourism support economic activity. However, rapidly rising public debt and high fiscal deficits, together with high external imbalances and high unemployment are of concern. The combined effects of large-scale public infrastructure investments and several new expensive social expenditure programmes challenge fiscal sustainability. Immediate corrective measures are required, as called for by the ERP policy guidance. Other problems to be tackled include high external imbalances and low labour market participation and still low credit growth amid high impaired bank loans.

In line with the 2016 ERP policy guidance and in order to support long-term growth, Montenegro should pay particular attention to:

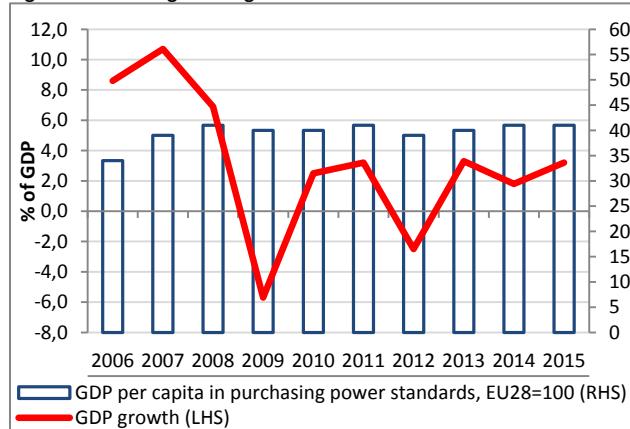
- stabilising and reducing public debt, including by adopting measures to restrain current spending and improve revenue collection;
- developing a comprehensive strategy to further foster the disposal of non-performing loans;
- prolonging working lives and reducing disincentives to work.

## Economic governance

**Prior to the October parliamentary elections, government and parliament lacked the commitment to adopt economic reforms.** The measures presented in the 2016 ERP did not offer an appropriate policy response to cope with the economic challenges, and the ERP policy guidance agreed on 12 May 2015 has only been partially implemented. Meanwhile, important contingent reform measures and restructuring plans were postponed until a new government is formed following the parliamentary elections of October 2016. Overall, a strong political commitment to pursue a stable fiscal policy and structural reforms is needed to improve the economic situation of Montenegro.

## Macroeconomic stability

Figure 1 Montenegro GDP growth



**Economic growth improved on the back of investment in infrastructure and tourism.** After a recession in 2012 and a slowdown in 2014, GDP expanded by 3.4 % in 2015. However, despite an overall good performance of investment, some large infrastructure projects were delayed, such as the priority section of the Bar-Boljare highway and the new thermal power plant. Growth in private and public consumption remained modest, and net exports had a negative contribution to growth in 2015. In the first half of 2016,

the economy decelerated to 1.9 % y-o-y, down from 3.4 % a year before. GDP per capita (in purchasing power standards) was 41 % of the EU average in 2015.

**The external deficit is very high.** The current account deficit narrowed to 13.3 % of GDP in 2015, down from 17.6 % in 2011. However, this trend reversed in the first half of 2016 when the current account deficit rose to 18.0 % of GDP as the tourism-driven surplus in services did not suffice to offset the deterioration in the trade and primary income accounts. In 2015 the external deficit was financed by a sustained inflow of FDI from a diversity of countries. FDI inflows have remained close to or above 10 % of GDP since 2004. However, in the first half of 2016, there was a strong outflow of FDI as a result of recording transfers abroad of retained profits from one large company. In order to balance the financial account, a sizable inflow of transfers was recorded under net errors and omissions.

**Inflation trends were largely driven by food and international commodity prices.** The inflation rate was decelerating in the last few years, reaching negative levels in 2014. The trend reversed in 2015 and inflation increased to 1.4 % as a result of rising prices for services (in particular accommodation and restaurants) and food. Since March 2016 inflation returned into negative territory driven by a new decline in fuel and food prices. In the first seven months of 2016, the inflation rate remained flat.

**The fiscal position deteriorated and poses risks to macroeconomic stability.** After several years of fiscal consolidation efforts, the budget deficit was reduced to 3 % of GDP in 2014, compared with 7 % two years before. However, the deficit surged again in 2015, reaching 7.3 % of GDP, considerably exceeding the target of 6.6 %. The substantial overrun resulted from the

**ERP policy guidance:** Stabilise the debt-to-GDP ratio net of debt related to capital investments already underway in 2016, and then reduce it over the remainder of the programme period.

unplanned repayment of arrears related to utilities, pension rights, and the unfavourable resolution of several court cases against the state. Consequently, public debt rose to 64.1 % of GDP at the end of 2015, exceeding the fiscal rule's mandatory ceiling of 60 % and legally compelling the government to prepare a plan to reduce the debt under this limit within five years. However, such a plan was postponed until the elections in October.

### **The execution of the 2016 budget is marked by poor planning.**

The 2016 budget originally planned for a deficit of 7.15 % of GDP, projecting the financing needs for the Bar-Boljare highway and increases in pensions and public sector wages. However, the budget plan was rapidly obsolete due to the unplanned deficit of the healthcare fund, the postponement of capital investments, and the introduction of life-long benefits for mothers with three or more children. In the first half of 2016, budget revenues increased by 7.7 % y-o-y. However, current expenditure rose faster (by 9.6 % y-o-y), resulting in a central government deficit of 2.9 % of GDP. Nonetheless, the cash-basis budget fails to reflect all budget commitments on time, and therefore remains subject to revision. In June 2016, the public debt -including municipalities- totalled 64.3 % of GDP.

**ERP policy guidance:** Take immediate measures to restrain current spending, including on pensions and the public sector wage bill. To generate budgetary savings and improve revenue collection, conduct a comprehensive review of tax expenditure as well as exemptions, and implement tax increase in a growth-friendly manner.

### **In light of the country's monetary regime, the fiscal stance has not been appropriate.**

Fiscal policy has been loosened since 2015, when public current spending increased significantly while revenues underperformed. High budget deficits and a fast growing public debt would have required urgent fiscal consolidation measures and a credible public debt management plan. However, such measures have not been taken so far.

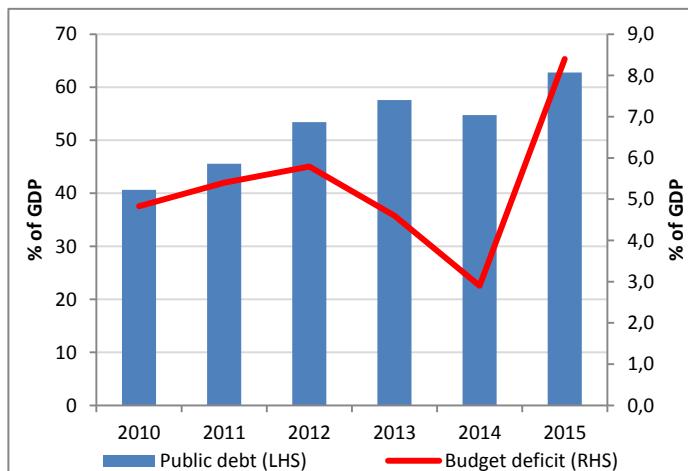
#### Functioning of product markets

##### *Business environment*

#### **The business environment recorded some improvement, but**

**there is room for further progress.** Efforts were made to enhance the protection of property rights, streamline legal and administrative procedures, and reduce backlogs at government offices. In 2015, the number of new companies registered was 4 113, similar to the previous two years. Companies can be partially registered online, although payments still need to be done in person. Cadastral records are available online, covering most of the country, but information is still problematic for some 7 % of rural area's territory. Users complain that the cadastre is not always updated, in particular with respect to encumbrances. In 2015, the average registration time of property transaction was 8 days, compared to 25 days in 2008, and the average time to issue a construction permit was reduced to 33 days at municipal level or 49 days at central level, down from 6 months in 2008.

Figure 2 Montenegro fiscal developments



The number of enforcement cases in the courts has been reduced since the introduction of the bailiff system, but is still considerable. In 2015, the collection rate of bailiffs was 21 %, solving 30 % of received cases. This represents good annual progress. However, predicting the outcome of judicial proceedings can be difficult due to the variability in speed and problems of consistency in case-law. Court orders are not always enforced or followed up. However, most bankruptcy liquidation proceedings – unless disputes arise – are completed in less than a year, compared to 18 to 30 months in the past. The informal economy remains large. In 2014, its size was estimated at 24.5 % of GDP<sup>3</sup>, and it is considered as a major obstacle for conducting business. Corruption continues to be a serious concern, negatively affecting the business environment. Intensified efforts are needed to strengthen the rule of law to ensure that regulatory improvements translate into an improved investment climate.

#### *State influence on product markets*

**The level of subsidies remains modest, but most of the state aid was allocated to one company (Montenegro Airlines).** In 2015, the general government budget provided for a modest allocation of state aid of 0.6 % of GDP for subsidies (down from 0.8 % of GDP a year before), plus an additional 0.3 % of GDP for new state guarantees. However, overall state subsidies and recapitalisation of the national airways represented 1.6 % of GDP. The government expressed its commitment to stop providing state aid to the company as of 2016. Following the introduction in 2015 of tax exemptions to attract new investments in priority sectors, the number of construction permits for 4-star hotels is estimated to have increased by 140 %. However, this kind of incentive requires a comprehensive review to make sure it does neither hinder competition nor public finances.

#### *Privatisation and restructuring*

**The privatisation process is quite advanced.** State ownership in the economy is basically reduced to public utilities, some transport companies (i.e. the railways, one airline and four merchant ships), the postal services and some other companies. Overall, state-owned enterprises represent a small part of total employment. After being liquidated and sold to new owners, state support to the metal industry ended. The new aluminium and steel companies are currently going through a process of restructuring. In April 2016, the aluminium company terminated its dependence on the public local power supply, and started importing its electricity instead. The restructuring of the formerly state-owned Adriatic Shipyard in Bijela advanced slowly through the concession or sales of its different parts. In September 2016, the construction contract for replacing the state-owned old thermal power plant by a new one was signed, but it would not be operational before 2020. The difficult financial situation of the state-run Montenegro Airlines requires a comprehensive restructuring of the company. As a first step the company concluded a cooperation agreement with Air Serbia in August 2016, while continuing the negotiations to also establish a strategic partnership programme with the Arab Emirates national airline. Management of the bankrupt Ulcinj saltworks was taken for a second year in a row by the National Parks of Montenegro with the objective of revitalizing salt production.

#### Functioning of the financial market

##### *Financial stability*

**Although stable, the banking system suffers from low profitability.** Three new banks have started operating since mid-2015, raising the total number of banks in the country to 15. There is a significant degree of concentration, with the five largest banks accounting for almost two-

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<sup>3</sup> UNDP National Human Development Report 2016.

thirds of total assets. The sector is largely dominated by foreign banks (80 % of share capital). In June 2016, the aggregated capital adequacy ratio was 16.6 %, clearly above the minimum requirement of 10 %. However, the large dependence on foreign financing makes banks vulnerable to funding cost volatility. The share of non-performing loans (NPLs) dropped to 11.7 % in 2015 from 16.5 % a year earlier, with a provision coverage ratio of 72.6 %. Overall, although the crisis preparedness and management framework of the financial system appear well developed, low bank profitability remains a source of vulnerability for some domestic banks, requiring further development of the macroprudential framework (*See chapter 9 - Financial services*).

#### *Access to finance*

**Lending to the private sector has not yet recovered to the pre-crisis level.** The low credit growth is the result of risk aversion among banks due to the high level of NPLs but also poor investment readiness and financial literacy among SMEs. In the first half of 2016, corporate lending recorded some improvement, growing by 3 % y-o-y (compared to 0.7 % a year before), while household loans grew by 5.4 % y-o-y. The reduction of non-performing loans allowed some reduction of financing costs for domestic companies. In June 2016, the average effective interest rate on new loans was 6.72 %, and 6.35 % for business loans, the latter down from 7.82 % a year before.

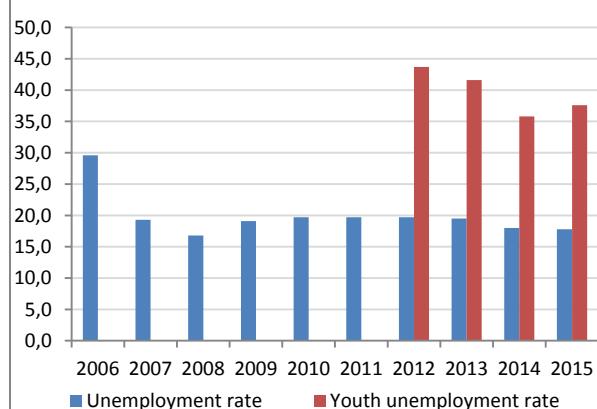
**ERP policy guidance:** Develop a comprehensive strategy to further foster the disposal of non-performing loans by banks, including participation by all relevant stakeholders, while establishing a bank lending survey to better gauge underlying credit dynamics.

**The non-bank financial sector is small.** In 2015, the market capitalisation of Montenegro Stock Exchange was significant, totalling 82 % of GDP, but its turnover was very low, at just 1.8 % of GDP. The insurance market is also modest, accounting for 2 % of GDP; a similar size as domestic micro-credit institutions. Leasing accounts for less than 1 % of GDP. Corporate lending of the state-run Investment Development Fund (IDF) represents 3 % of GDP, compared to 28 % of GDP from commercial banks.

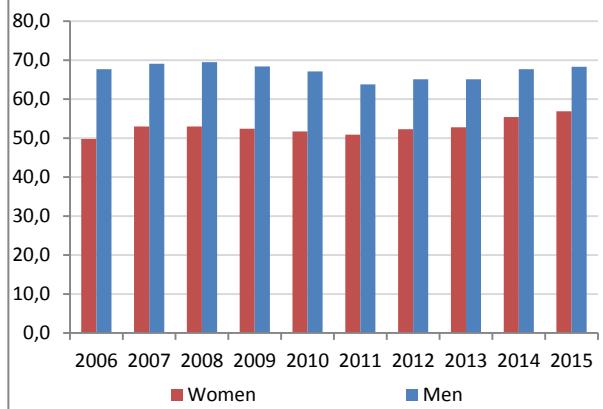
#### Functioning of the labour market

**The unemployment rate is high, hindered by poor labour mobility, labour market rigidities and a skills mismatch.** The strong demand for foreign labour contrasts with the low mobility of the local workforce. The working population (15-64) activity rate in Montenegro still is 12 percentage points lower than the average in the EU, even if it has increased over the past five years from 57.3 % in 2011 to 62.6 % in 2015, and to 63.6 % in the first half of 2016. Meanwhile, the unemployment rate declined modestly, from 19.7 % in 2011 down to 17.7 % in June 2016. However, the unemployment and participation rates of women (17.3 % and 56.6 %) remain lower than for men (18.0 % and 70.6 %). The gender imbalance worsened as regulatory changes in the social care system, like the life-long benefits for mothers of at least three children, provided disincentives for women participation. More than 15 000 women have already applied for these lifelong benefits, effectively pushing many of them out of the labour market. In the second quarter of 2016, women labour force declined by 2.6 % y-o-y, while men's participation increased by 1.2 %. The unemployment rate of young people (15-24 years old) is also very high at around 35.5 % in the second quarter of 2016.

**Figure 3 Unemployment in Montenegro (% of Active population)**



**Figure 4 Participation rates in Montenegro (% of Labour Force)**



**Active labour market policies continue to be under-funded**, with the focus on young graduates and seasonal workers. Long-term unemployed women and young people in particular could benefit from reductions in work disincentives, like the benefits for mothers mentioned above or the introduction of active labour market policy instruments.

**ERP policy guidance:** Prolong working lives and reduce disincentives to work through strengthening the link between activation measures and social assistance, in order to improve the labour market participation of the long-term unemployed, women and youth. Implement strategies to align education and skills policies with labour market needs.

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

Montenegro is **moderately prepared** in its capacity to cope with competitive pressure and market forces within the Union. **Some progress** was achieved in improving the quality of infrastructure, the energy market and the digitalisation of the economy. SMEs support is modest but gradually developing. However, substantial efforts are still required to develop human capital and a competitive export-oriented industry.

In line with the ERP policy guidance and in order to support long-term growth, Montenegro should pay particular attention to:

- ensuring effective, efficient and independent regulatory and safety authorities to implement the full opening of rail and energy markets;
- facilitating provision and range of financial and non-financial support services for SMEs with a view to fostering participation in global value chains;
- implementing strategies to align education and skills policies with labour market needs by improving the quality of education and equipping students with better basic and transversal skills.

#### Education and innovation

**The school-to-work transition is not efficient for most youth.** It takes nearly two years on average to attain a first job deemed to be either stable or satisfactory. Public spending on education represents 4.2 % of GDP, compared to 5.3 % average in the EU. Early childcare and pre-schooling (0-5 years) enrolment rates are low (at 38 %, and well below the EU target of 95 % by 2020) in contrast with the high enrolment rates in education at primary and secondary levels at 98 % and 85 %, respectively. Enrolment at tertiary level is relatively high

at 35 %. However, Montenegrin students' poor average score of 31/100 in the last OECD's PISA tests for reading, science and mathematics underlines the need for improving the quality of basic education.

The stagnation since 2011 of the unemployment rate of secondary VET graduates (at around 18 %), suggests that the effectiveness of the VET system could also be further improved and the enrolment rates in VET reduced. Meanwhile, the provision of in-company practical training in real work environment is still at an initial stage, with less than 2 % of employees participating in some sort of training or skills development. In 2013, only 23.7 % of companies offered formal training to their employees.

Overall, although educational attainment has increased significantly in a generation, the number of graduates from higher education is not easily absorbed into the limited number of available jobs. In addition, as pointed out in a recent EU funded study, both employers and graduates believe that the education institutions do not equip students with key soft skills, such as problem solving, organisational, decision-making, foreign languages, etc., which are important for employability. The educational provision in VET and higher education sectors should reflect and reinforce the country's economic development strategies.

**Considerable efforts are also required to increase the level of investment in research and innovation, particularly from the private sector.** Investment in research is modest. In 2014, total investment on research and development amounted to 0.36 % of GDP, and of this, only 0.14 % came from private sector. The construction of the multi-purpose innovation and entrepreneurship centre 'Tehnopolis' was completed and public tenders for selection of 14 entrepreneur tenants finalised. The centre officially opened on 17 September.

#### Physical capital and quality of infrastructure

**Some progress was made in developing transport and energy infrastructure.** Ground transport suffers from bottlenecks and a lack of cross-border roads is hindering trade and tourism. After one year of preparatory works, the highway priority section to connect the port of Bar with the Serbian border started in 2016. The main rail line Bar-Belgrade is being overhauled to increase the average speed of trains by 60 %. Meanwhile, there has been a steady progress in liberalizing the railway sector in Montenegro. The rail market was legally opened in 2014 and capacity allocation process implemented, but further efforts are needed to improve railway safety and interoperability, including ensuring sufficient capacity for and the independence of the rail regulatory body and rail safety authority. Air fares are rather high and low-cost carriers offer relatively few routes to Montenegro.

**ERP policy guidance:** Ensure effective, efficient and independent regulatory and safety authorities to implement the full opening of rail and energy markets.

In October 2015 a digital system (VTMIS) for maritime traffic control was established. The electric power system is being upgraded with new transmission lines, several small hydropower plants and the construction of the first wind-farms. However, the construction of the new thermal plant was delayed. Improved regional cooperation is supported by the construction of a submarine cable (to become operational in 2019), connecting Montenegro and Italy, with extensions towards Serbia and Bosnia and Herzegovina. In 2016, the unbundling of the power utility EPCG enabled new suppliers to compete in the local electricity market. Development of an offshore oil and gas industry is at an incipient stage. However, infrastructure investments can be better embedded in wider sector policies, including regulatory measures.

**The digitalisation of the economy continues.** The penetration rate of fixed broadband internet expands gradually, reaching 60.3 % in June 2016 compared to 50 % five years before. In 2015, 94.3 % of surveyed enterprises reported on the use of computers and the internet in their activities. At 170 %, Montenegro has one of the highest mobile phone penetration rates in Europe as well as world-wide. Montenegro's e-government portal is quite advanced. Online banking and e-commerce are rising and have a large potential for further expansion.

#### Sectoral and enterprise structures

**Services are the main engine of growth and employment.** Services account for 72.6 % of total gross value added, compared with 12.9 % for the industrial sector, 9.8 % for agriculture and 4.6 % for construction. The trend in the last years reflects a continuous growth of services' gross value added. The development of services is also reflected in the share of jobs occupied by young people. The large majority of youth (88 %) work in services, and in the case of female youth this percentage reaches 95 %. By contrast, young workers in industry and agriculture represent 4 % and 1 %, respectively.

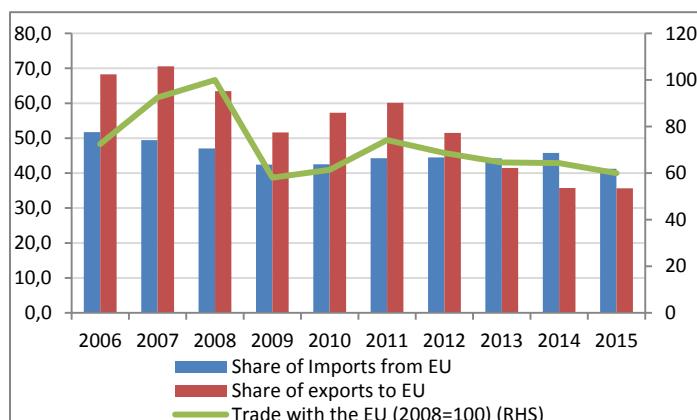
**Government support to SMEs aims to facilitate access to finance and to foster investment.** SMEs represent 99 % of total firms and generate 75 % of value added as well as 82 % of employment. Access to finance is one of the major challenges for SMEs. The IDF channels the largest portion of public sector support for SMEs through credit lines for start-ups and financing programmes. However, the IDF discontinued funding for credit guarantee schemes. The government is implementing a pilot project to support the modernisation of industry by offering favourable financing conditions.

**ERP policy guidance:** Continue to facilitate the provision and range of financial and non-financial support services for SMEs with a view to foster participation in global value chains. Support the development of the private consultancy market.

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

**The EU and CEFTA are Montenegro's main trading partners.** Total trade with the EU has gradually deepened in the last five years. In the first half of 2016, trade with the EU accounted for 44.8 % of Montenegro's exports and 49.2 % of its imports, followed by trade with CEFTA, representing 40.7 % of exports and 29.3 % of imports. In March 2016, Montenegro ratified the new WTO Trade Facilitation Agreement to facilitate the movement of goods and customs clearance procedures. Financial integration with the EU is also high, accounting for 74 % of foreign assets in local banks and 63 % of the FDI in 2015.

Figure 5 Montenegro trade integration with the EU



**Montenegro needs to improve its export performance.** Montenegro is a small and open economy. In 2015, the total value of exports of goods and services totalled 103.4 % of GDP. Yet, the country has a small manufacturing base largely concentrated on commodities. Products are predominantly of low technological and value added content. Moreover, the geographical location – distant from major international transit routes and

Europe's industrial centres – excludes Montenegro from international transport and production networks. The competitiveness of domestic companies is poor, with a value added per

employee of around EUR 11 000, compared to EUR 42 000 on average in the EU.

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

##### **4.1. 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** for the free movement of goods. **Good progress** was made in this area over the past year, including further alignment with the *acquis* and the adoption of a strategy to ensure compliance with Articles 34-36 of the Treaty on Functioning of the European Union. It needs to strengthen its capacity and resources to ensure implementation, particularly on quality infrastructures, and also to implement REACH.

In the coming year, Montenegro should in particular:

- ensure that sufficient human and financial resources are allocated to carry out the necessary strengthening of its market surveillance, standardisation and accreditation bodies;
- comply with the planning for alignment laid down in the amended 2014-2018 strategy and action plan for alignment with the *acquis* in this chapter.

##### General principles

Regarding **general principles**, the framework for the free movement of good is largely in place. There are legal measures that restrict the **distribution and marketing** of medical products and tobacco, but the 2015-2018 action plan for compliance with Articles 34-36 of the TFEU provides for their elimination by the end of 2018. Montenegro is implementing its **2014-2018 strategy and action plan for alignment** (the ‘alignment strategy’) to the *acquis* in this chapter. This involves alignment with all the *acquis* in the chapter by the end of 2018. However, Montenegro had to amend the alignment strategy in June 2016 due to changes to the *acquis* and delays in alignment.

##### Non-harmonised area

In December 2015 Montenegro adopted a 2015-2018 action plan for **compliance with Articles 34-36** of the TFEU. This action plan provides for eliminating legal measures that have a negative impact on the **production, distribution and marketing of industrial products**, including the adoption of mutual recognition clauses. The Ministry of Economy is empowered ensure the **obligation to notify legislation**.

##### Harmonised area: quality infrastructure

The legal basis and administrative structure are partly in place for technical regulations, standards, conformity assessment, accreditation, metrology, market surveillance; plans for full alignment are laid down in the ‘alignment strategy’. ISME, the national **standardisation** body is independent and able to implement full European and international standards, but it does not have adequate staff resources and financing. ISME has adopted 13 818 Montenegrin standards (MEST), 3,064 of which are harmonised MESTs, which are aligned with international and European standards. (Some MEST are issued in Montenegrin while others were adopted by the ‘cover page’ method (where the text of the standard is in another language, such as English)). Montenegro is an affiliate member of CEN, CENELEC and it has

one member of ETSI; full membership of CEN & CENELEC is foreseen by the end of 2018. In 2016 Montenegro fully aligned to Regulation (EU) 1025/2012 on standardisation.

There are 29 **conformity assessment** bodies in Montenegro. Two more are in the process of being accredited, but their overall number remains low. A 2015-2018 strategy and action plan for accreditation have been adopted, but the limited resources of the Accreditation Body of Montenegro put the implementation of the strategy at risk. The Metrology Bureau is the official **metrology** body. A 2016-2018 strategy for development of metrology in Montenegro was adopted by the government in December 2015.

On **market surveillance**, the law on general product safety is partly aligned to the *acquis*. The market surveillance bodies monitor domestic and imported products and take preventive and restrictive measures, including prohibiting the placing of certain products on the market or withdrawing them for health or safety reasons. Amendments to the law on inspections were adopted in February, while in April the government adopted a Decree determining which product groups would be subject to market supervision and another Decree establishing the coordination body for market surveillance.

On **product safety**, 1 884 inspections were performed during the reporting period. These identified 236 dangerous products types (7 725 items, some of which were permanently taken off the market). However, the administration's budget remains insufficient.

#### Harmonised area: sectoral legislation

For the '**New and Global Approach**' **product legislation** Montenegrin legislation is aligned to the *acquis* on personal protective equipment and outdoor noise equipment. However, the quality infrastructure capacity issues mentioned above also mean that the implementation of aligned legislation is not always fully assured. In the reporting period, new legislation was also adopted that was partly aligned to the *acquis* on aerosol dispensers, cableways, explosives traceability, pyrotechnic articles traceability, the setting of maximum prices of medicines, pharmacovigilance, traditional herbal medicines and homeopathic medicines.

On '**Old Approach**' **product legislation**, in January the government adopted a national strategy and a related action plan for managing chemicals. Montenegrin legislation on Pre-packaged Products and Bottles used as Measuring Containers are aligned with the *acquis*, while that on drug precursors and several sub-sectors of fertilisers is partly aligned. Some preparatory steps have been taken with the aim to move towards alignment with REACH. In addition, national legislation on chemicals classification, labelling and packaging is partly aligned with the CLP Regulation (Regulation (EC) 1272/2008). However, the administrative capacity necessary to implement REACH needs strengthening.

On **drug precursors**, there is a national list of controlled substances compliant with the *acquis* and mechanisms are in place to detect smuggled drug precursors. Economic operators are obliged to report suspicious orders or transactions.

On **good laboratory practices**, practices are only aligned for industrial chemicals.

On **procedural measures**, in the reporting period Montenegro adopted legislation designed to be partly aligned to the *acquis* on textiles and footwear and fully aligned on crystal glass.

## **4.2. 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 achieved **some level of preparation** in this area. **Some progress** was made on freedom of movement for workers.

On **access to the labour market**, amendments to the law on foreigners revoking some limitations on the employment of foreigners in Montenegro came into force in March. The amendments removed the obligation to issue the Employment Agency's certificate confirming that there were no unemployed persons registered with the Employment Office fulfilling the conditions to be employed at certain jobs or that the person registered refused to be employed at such jobs.

On the **coordination of social security systems**, a bilateral agreement on social security was signed with Slovakia, while negotiations with Romania continued. Montenegro also initiated negotiations with Serbia on amendments to the existing agreement on social security.

With regard to the **health card**, the law on health insurance adopted in December 2015 recognises the European Health Insurance Card.

#### **4.3. 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 is **moderately prepared** in these fields. **Some progress** was made on the right of establishment and freedom to provide services. In the coming year, Montenegro should, in particular:

→ continue preparations to align its legislation on the mutual recognition of professional qualifications with the *acquis* and with the Services Directive.

On the **right of establishment**, electronic company registration is not yet fully available and has yet to be extended to all regional tax administration offices.

On the **freedom to provide cross-border services**, preparations for alignment with the Services Directive continued. The report on the implementation of the action plan for transposition of the Services Directive was prepared in July 2016 but still has not been adopted by the government.

There were some developments in the area of **postal services**. In July, the parliament amended the law on postal services. The postal service (Posta Crne Gore) remained in the 2016 privatisation plan.

On **mutual recognition of professional qualifications**, the new law should be adopted by the 3<sup>rd</sup> quarter of 2017. The list of regulated professions is being drafted and will be ready after the adoption of the new law. Regarding nationality requirements for the professions of notaries and court interpreters, Montenegro amended the relevant legislation in July 2016.

#### **4.4. 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. **Some progress** was made on payment systems and the fight against money laundering needs to continue.

In the coming year, Montenegro should in particular:

- increase institutional capacity to perform checks over all reporting entities regarding the prevention of money laundering.

There were no significant developments on **capital movements and payments**.

Some progress was made on **payment systems**, with the number of registered payment institutions' agents reaching 13.

On the **fight against money laundering**, the Central Bank adopted a 'Report on the Vulnerability of the Banking Sector and other Financial Institutions from Money Laundering and Financing of Terrorism' in accordance with the World Bank methodology.

In December, the government adopted the money laundering and terrorist financing national risk assessment, as well as the action plan specifying measures and obligations for government bodies.

In March, the Central Bank adopted amendments to the Decision on the structure, more detailed conditions and manner of transaction account opening and closing.

In September 2015, the Administration for Prevention of Money Laundering and Terrorism Financing drew up 'Guidelines for the assessment of the risk of money laundering and terrorist financing in companies, legal persons, entrepreneurs and natural persons that perform the activity of and/or are engaged in the business of audit, authorised auditor, accountancy and tax advisory services'. The Central Bank carried out 10 additional bank inspections. There were 163 bank reports on suspicious clients and transactions, an increase of 52 % compared with 2014. The Central Bank amended the Decision on transaction account's opening and closing in order to further align Montenegrin legislation in this field.

#### **4.5. Chapter 5: Public procurement**

*EU rules ensure that the public 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 is **moderately prepared** on public procurement, an area particularly vulnerable to corruption. **Some progress** was made thanks to the start of the implementation of a new 2016-2020 strategy on public procurement, which was one of the 2015 recommendations. No progress was made on legal alignment, where the area of concessions in particular remains at an early stage. More efforts are needed to strengthen implementation and enforcement capacity at all levels and prevent corruption during the procurement cycle.

In the coming year Montenegro should in particular:

- continue to strengthen the implementation and enforcement capacity of its public procurement system at all levels, including on e-procurement, the monitoring of contracts and supervision and reporting on procurement procedures;
- implement a legal alignment plan to ensure full harmonisation with the 2014 EU Procurement Directives, especially on concessions, and make the remedies system work better.

#### Institutional set-up and legal alignment

The institutional and **legal framework** on public procurement is broadly aligned with the *acquis*, apart from on concessions. Montenegro now needs to address remaining gaps and ensure full alignment with the 2014 EU Public Procurement Directives. A new draft law on public private partnership and concessions is under preparation.

Montenegro needs to ensure that any international bilateral agreement does not unduly restrict competition and that they comply with the EU *acquis* and related TFEU provisions on public procurement, as well as with commitments under the WTO Government Procurement Agreement.

Montenegro's new 2016-2020 **strategy** to develop the public procurement system, adopted in December 2015, is being implemented. A regular reporting mechanism has been set up. The new strategy focuses on reaching full alignment with the *acquis* and sets out how Montenegro seeks to ensure a strong implementation capacity at all levels. The strategy, however, does not cover implementation in the area of concessions and lacks information about the financial planning and resource allocation.

Montenegro's **Public Procurement Administration** (PPA) is responsible for implementing the law on public procurement and monitoring and implementing the 2016-2020 public procurement development strategy. During the reporting period, rulebooks on standard forms and the sub-criteria for selecting the best tenders were revised. The PPA is an independent state body.

#### Implementation and enforcement capacity

Better **monitoring** of contract awards and contract implementation is needed. While the 2014 amendments to the procurement law gave the public inspection service more powers in this area and a third inspector was recruited in January 2016, the service's capacity remains insufficient for its tasks. In addition, better internal auditing within contracting authorities remains crucial for improving monitoring and verifying contract implementation (see also *chapter 32 — Financial control*).

Contracting authorities' **capacity to manage public procurement processes** continues to improve. The planning, preparation and implementation of public procurement are generally in line with transparency and efficiency principles, although planning should be more realistic and in line with the allocated resources for procurement. Moreover, public procurement still suffers from an overly formalistic approach and the prevalence of price as the only award criterion.

Montenegro urgently needs to invest in better data management to trace the complete procurement cycle and make the system more user-friendly. With this in mind, work is ongoing to develop a full e-procurement system.

The PPA's capacity to promote and enforce public procurement rules and monitor the procurement market continues to improve. However, the PPA needs to invest more in assessing the performance of the procurement processes, including on the risk of irregularities and factors that reduce the competitiveness and efficiency of public procurement. The current level of the PPA's resources remains insufficient to address this task effectively.

The public procurement certification and training programme is updated each calendar year to reflect recommendations by contracting authorities and bidders, and includes public procurement planning and contract management modules. By May 2016, some 57 % of public procurement officers employed have been certified. The number of contracting authorities could be further reduced to gain efficiency: in 2016 the figure stood at 614, compared with 648 in 2015 and 621 in 2014.

A regulatory and institutional framework is in place on **integrity and conflict of interest** mechanisms in public procurement. At the end of 2015 the Ministry of Finance adopted a rulebook on an anti-corruption methodology which is a positive development. The number of

integrity-related reports remains low; surveys of public opinion show that public procurement continues to be perceived as a significant source of corruption.

#### Efficient remedies system

The right to legal remedy is stipulated in the constitution and the law on public procurement. The legislation on review procedures is broadly in line with the relevant EU *acquis* and general EU Treaty principles. The remedies system includes an administrative review by the State Commission for the Control of Public Procurement (PPC), which is an independent administrative body, reporting annually to parliament. The Concessions Commission is responsible for remedies for awarding concessions. The decisions of the PPC and the Concessions Commission are final, but can be challenged before the Administrative Court of Montenegro.

In 2015, the PPC upheld 30 % of submitted appeals and cancelled 269 procurement procedures, a level less than the previous year. The number of PPC decisions fell by 10 % compared with 2014, albeit this follows three previous years of steady increases. The number of Administrative Court rulings annulling decisions of the PPC remains significant with a 44 % rejection rate, partially deriving from conflicts between public procurement and administrative procedure rules. This undermines the functioning of the remedies system. Moreover, Montenegro needs to improve the transparency of PPC rulings by upgrading the register of decisions and introducing user-friendly online search functions. The PPC at present is understaffed, particularly considering the steady increase in the number of appeals.

#### **4.6. 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 **moderate/good level of preparation** on company law. Some progress was made towards legislative alignment and on statutory audit oversight capacity. In the coming year, Montenegro should in particular:

- establish the public audit oversight system following adoption of the draft law on audit;
- continue work on aligning with EU accounting and statutory audit *acquis*.

National legislation on **company law** is largely in line with the *acquis*. Work on legislative alignment continues, in particular through the drafting of the law on capital markets, including transparency requirements. Amendments to the law on takeovers of joint-stock companies were adopted in June. Alignment on cross-border mergers needs to be ensured. Montenegro is developing online electronic company registration to facilitate its business environment, but it is not yet fully operational.

Progress was made on **corporate accounting and auditing** through the adoption of the law on accounting in July, while the draft law on auditing is currently in parliamentary procedure. Once implementing legislation has been prepared, these laws will facilitate compliance with the most recent EU legislation on accounting and statutory audit. The World Bank project concerning the setting up and operation of a public audit oversight body and a related system of quality assurance was completed in August.

#### **4.7. Chapter 7: Intellectual property law**

*The EU has harmonised rules for the legal protection of intellectual property rights (IPRs), 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. **Some progress** was made on further legislative alignment but serious challenges remain on enforcement. In the coming year, Montenegro should in particular:

- further strengthen cooperation mechanisms of all intellectual property rights-related bodies;
- improve its track record on investigations, prosecutions and judicial treatment of violations, including reporting.

On **copyright and neighbouring rights**, amendments to the law on copyright and related rights and the law on protection of semiconductor topographies were adopted in July and June respectively.

On **industrial property rights**, parliament adopted amendments to the laws on trademark and on protection of industrial design were adopted in June.

On **enforcement**, the Intellectual Property Office (IPO) created a working group on collection and analysis of statistical data; a new and more complete reporting template was created. Criminal prosecution remains unsatisfactory. Montenegro's enforcement record, even though the presentation of statistics is good, is limited with no court cases on trade mark infringements, and only 2 on patents reported in June. Despite numerous checks on software licences by the Market Inspectorate, the level of unlicensed software in Montenegro is high. Staffing of the IPO remains low.

The IPO's IT infrastructure improved thanks to the establishment of a new information system for the patent register. The IPO's website was also made more user-friendly and accessible.

#### **4.8. Chapter 8: Competition policy**

*EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of dominant position. EU rules also prevent governments from granting State aid which distorts competition.*

Montenegro has **some level of preparation/is moderately prepared** in this area. **Some progress** has been achieved, in particular on legislative alignment. Montenegro has a good level of preparation as regards alignment with the rules on antitrust and mergers. However, implementation of these rules has demonstrated some weaknesses. Further efforts are needed to improve legislative alignment and the enforcement record on State aid. In the coming year, Montenegro should in particular:

- empower the Agency for the Protection of Competition to directly impose fines;
- ensure the operational independence of the State Aid Control Commission and improve the effectiveness of its control on State aid at all levels;
- complete the alignment of the law on State aid control with the *acquis*, in line with the Stabilisation and Association Agreement (SAA) obligations.

##### Antitrust and merger

The **legislative framework** is broadly in line with the *acquis* and the SAA. The law on protection of competition is largely aligned with TFEU Articles 101 on restrictive agreements and 102 on abuses of dominant position. It also provides for an *ex ante* control of mergers

above certain turnover thresholds, in line with the principles of the Merger Regulation. Secondary legislation providing further substantive rules and guidance on how competition rules should be applied is largely in place and in line with the relevant regulations and Commission guidelines.

As regards the **institutional framework**, the Agency for Protection of Competition (APC) is responsible 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. It may act upon a complaint or a notification (e.g. for mergers) or act of its own initiative. When carrying out an investigation, it may issue requests of information and carry out on-site investigations. A leniency policy allowing for reduced fines for self-reporting cartel members is in place. However, fines cannot be imposed by the APC, but only by a decision of misdemeanour courts. The APC may approve mergers, with or without conditions, or prohibit them. The APC may also provide an opinion, of its own initiative or upon consultation, on draft legislation that may affect competition, although it may not do this in a systematic way. The APC's decisions may be the object of appeal before the Administrative Court.

As regards **enforcement capacity**, the APC has 13 staff members (including seven case handlers). Its level of staffing and expertise is insufficient. In terms of **implementation**, the number of decision on cartels and abuses of dominant position remained stable, with three decisions in 2013, six in 2014 and three in 2015. The APC started an in-depth investigation of a merger for the first time in 2015, which resulted in its conditional approval. However, only one fine was imposed by the misdemeanour court in 2014, for the low amount of EUR 36.000. The APC needs to step up its enforcement policy, in particular by conducting more on-site inspections (only one was carried out so far) and by promoting the use of leniency policy as a means to uncover cartels. The APC provided eight opinions on the relevant secondary legislation. However, these should be actively followed up.

The APC's decisions on appeals were upheld to some extent by the courts but sometimes hampered by their application of the statute of limitation. The courts' capacity to handle complex competition cases must be strengthened.

#### State aid

The **legislative framework** is partially in line with the *acquis* and with the SAA. The law on State aid control is aligned with TFEU Articles 107 and 108 but only partially aligned with the secondary EU legislation. The revised law on free zones was adopted in July. Montenegro continued with the adoption of further decrees ensuring the alignment with this *acquis*, in line with the SAA obligations.

As regards the **institutional framework**, the State Aid Control Commission (SACC) is responsible for implementing the law on State aid control. The SACC is administratively part of the Ministry of Finance and its members are nominated by aid-granting ministries, and it is assisted by the State Aid Control Unit. The current SACC does not yet meet the SAA requirement for it to be an operationally independent authority. The SACC's decisions can be appealed before the Administrative Court.

The law on State aid control provides that all new State aid measures must be notified to the SACC and found to be compatible by the Commission before they can be implemented. The SACC can take a negative decision. If an aid measure is not notified, the SACC may, either on the basis of a complaint or acting on its own initiative, investigate the measure.

The SACC's **enforcement capacity** is insufficient. The level of staffing is inadequate. The level of expertise and the budget need to be strengthened. The enforcement track record of the SACC needs to further improve. The number of decisions adopted by the SACC increased from 12 in 2013 to 31 in 2015, with two negative decisions in that year.

The SACC received no complaints between 2013 and 2015, which could indicate a low awareness of State aid rules among stakeholders. There is evidence that a certain number of aid measures granted at central or local level, in particular to large companies (e.g. Montenegro Airlines), are not notified or properly investigated by the SACC. Awareness of the State aid rules among aid grantors is weak and advocacy must be stepped up.

#### Liberalisation

The law on protection of competition and the law on State aid control are applicable to public undertakings and undertakings with special or exclusive rights, except when their application would obstruct the performance of the particular tasks of services of general economic interest that are assigned to them, in line with Article 106 of the TFEU and with the SAA. The rules on the financing of services of general economic interest are largely aligned with the State aid *acquis*. However, Montenegro needs to further demonstrate that these rules are properly enforced. There are no monopolies of a commercial character within the meaning of Article 37 of the TFEU.

#### **4.9. Chapter 9: Financial services**

*EU rules aim at ensuring 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 in this field but more work is required to implement the financial services' *acquis*. In the coming year, Montenegro should, in particular:

- step-up preparation for adopting the EU *acquis* in the financial market infrastructure field;
- make further efforts in addressing NPLs (non-performing loans);
- take additional steps to align with CRR/CRD IV.

On **banks and financial conglomerates**, the Central Bank and other supervisory authorities in the region signed a cooperation agreement with the European Banking Authority in October 2015. In 2015, the Central Bank prepared legislation to bring it into line with the banking CRD 4 package and with Directive 2014/59/EC establishing a framework for the recovery and resolution of credit institutions and investment firms (CRRD).

On **insurance and occupational pensions**, the Insurance Supervision Agency adopted two rulebooks. In July 2016, the parliament adopted the amended law on insurance.

On **financial market infrastructure**, no developments were recorded.

On **securities markets and investment services**, the parliament adopted the amended law on takeovers of joint-stock companies. The Security and Exchange Commission initiated the adoption of amendments to the law on investment funds and amendments to the law on voluntary pension funds.

## **4.10. Chapter 10: Information society and media**

*The EU supports the good 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 continues to be **moderately prepared** in the area of information society and media. **Some progress** was made during the reporting period. The independence of the Agency for Electronic Communications and Postal Services (EKIP) and the Agency for Electronic Media continued to be undermined, albeit to a lesser extent than previously.

In the coming year, Montenegro should in particular:

- ensure the financial and editorial independence of the public broadcaster through appropriate financial resources and a sustainable funding model.

On **electronic communications and information and communications technologies**, the new strategy on information society development in Montenegro by 2020 was adopted on 21 July. The Ministry and EKIP adopted eight new regulations. As of January, EKIP is no longer required to transfer any budget surplus to the state budget. Parliament still continues to have the authority to dismiss the entire EKIP Council if it does not approve EKIP's financial report

Both amendments to the law on postal services and to the law on electronic communications should be fully consistent when it comes to ensuring that revenues from electronic communications will not cover postal services costs.

On 2<sup>nd</sup> August, EKIP completed the multi-band auction of frequencies in the 800 MHz, 900 MHz, 1800 MHz, 2GHz and 2.6 GHz bands. All three existing mobile operators secured frequency resources, as well as spectrum freed from previous digital dividend. The auction did not attract interest from any new player.

The prices for regional roaming services further decreased on 1 July 2016 following the 2014 agreement with Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia. Telecommunication operators launched a court case against the decision on the grounds that it had no legal basis.

On **information society services**, amendments to the law on information security have been adopted in June 2016, which included the establishment of a National Council for Information security, as well as the protection of the national critical IT infrastructure.

On **audiovisual policy**, the Agency for Electronic Media (AEM) is no longer required to transfer any budget surplus to the state budget or to submit its financial and technical reports to parliament for approval. AEM's independence is undermined by unclear divisions of rights and duties in the course of control hearings before parliament. Further, the Agency launched a second call for the distribution of funds to commercial radio broadcasters. Amendments to the law on public broadcasting services and the law on electronic media have been adopted. Radio Televizija Crne Gore still lacks the appropriate and stable financial resources to have the necessary independence to meet its role and obligations in public broadcasting and digitalisation.

## **4.11. 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 is **moderately prepared** in the area of agriculture and rural development. **Good progress** was made in this area, including the adoption of legislation and advances towards entrustment with budget implementation tasks for IPARD II.

In the coming year, Montenegro should in particular:

- fulfil outstanding obstacles towards entrustment with budget implementation tasks so as to move ahead with the implementation of the IPARD II programme;
- continue implementing the action plan for *acquis* alignment on agriculture and rural development.

On **general agricultural issues**, direct support measures will need to be brought into line with the *acquis* by fully decoupling them from production and linking the payments to cross-compliance standards and conditions. Montenegro is in the process of establishing a land parcel identification system. This is part of the overall integrated administrative and control system needed to manage and control funding under the common agricultural policy. For the system to work properly, Montenegro will have to build capacity and ensure that the different bodies involved have clear and well-coordinated responsibilities.

On **common market organisation**, a law on wine, and a law on spirits and a law amending the law on olive oil were adopted. A draft law on the market organisation for agricultural products is under preparation. Strengthening administrative capacity and implementation is important.

On **rural development**, Montenegro submitted a request to be entrusted with budget implementation tasks for IPARD II Programme in December 2015 and continues to make progress in this regard. The entrustment with budget implementation tasks is likely be granted by the Commission at the end of 2016. Entrustment signifies the start of the implementation of the IPARD II programme. The sectoral agreement was signed in November 2015. On **quality policy**, capacity building is ongoing in this area. A draft law on quality schemes aligning to the EU *acquis* is currently being prepared. In the area of **organic farming**, implementing legislation on controls and registers was adopted.

On **quality policy**, capacity building is ongoing for the certification body that will implement compliance assessment of products and product specification. The law on quality systems and the law on geographical indications are being prepared.

#### **4.12. 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 is **moderately prepared** on this chapter. **Good progress** was made in this area, including with the adoption of implementing legislation.

In the coming year, Montenegro should in particular:

- implement the strategy for transposing and implementing the *acquis*;
- continue to improve its administrative capacity, in particular for inspection services and laboratories;
- continue upgrading food establishments.

On **general food safety**, a number of rulebooks, decrees and bylaws were adopted. A new Administration for Food Safety, Veterinary and Phytosanitary Affairs was established within the Ministry of Agriculture and Rural Development.

On **veterinary policy**, implementing legislation was adopted in various fields. The Animal Identification and Registration system was extended to pigs and the actual identification and registration of pigs and pig holdings has been completed. The multiannual programme for the eradication of rabies continued. The autumn 2015 and spring 2016 vaccination campaigns were completed. Capacity building for veterinary services was further pursued. The vaccination campaign for lumpy skin disease has been completed.

On the **placing on the market of food, feed and animal by-products**, Montenegro completed its classification of food establishments and establishments handling animal by-products into three categories: compliant with EU requirements, establishments with minor non-compliance and establishments with major non-compliance.

Implementing legislation on **food safety rules** was adopted in various fields. Capacity building for food safety services continued. There were no developments on **genetically-modified organisms**.

There were no developments on **specific rules for feed**.

Implementing legislation on **phytosanitary policy** was extensively adopted. Capacity building for phytosanitary services was pursued.

#### **4.13. Chapter 13: Fisheries**

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

Preparations remain at an **early stage**. **No progress** was made in this area, particularly as regards the legislative framework.

In the coming year, Montenegro should in particular:

- continue implementing the action plan for transposing, implementing and enforcing the EU *acquis*;
- strengthen administrative capacity.

Regarding **resource management**, implementing legislation was adopted on the content of the permit for commercial fishing and on prohibition to for prohibiting the catch and trade in fingerlings, juvenile fish and other marine organisms. In the area of **inspection and control**, implementing legislation was also adopted on how to keep and submit the data from farming of fish and other marine organisms, as well as on issuing catch certificates.

During the reported period, there were no substantial developments on **fleet management; structural actions; market policy; State aid; international fisheries agreements**.

#### **4.14. 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. **Some progress** was achieved in the past year, in particular in the area of maritime, rail

and air transport. However, more work is needed to strengthen administrative capacity and coordination for all modes of transport and to further align with the *acquis* on inland waterways and intelligent transport systems.

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

- ensure the independence and the staffing of the railway regulatory body;
- increase effort for achieving full membership to the Paris Memorandum of Understanding (MoU);
- prepare and ensure timely publication of the network statement for the rail facilities in the port of Bar and start the reviewing process for national technical safety rules.

On the **general transport** *acquis*, the key strategic documents were adopted. However, Montenegro should further strengthen its strategic framework by revising the 2008 transport development strategy to ensure alignment with the regional agenda on connectivity. Coordination with the neighbouring countries is very limited and should become part of any planning process. The national legislation is partially aligned with the *acquis* on summertime arrangements. Further efforts are needed to complete alignment with the *acquis* on public service obligations, including on procedure and criteria for the award of public service contracts in the field of road and rail transport.

The legislation on air, railway and maritime safety was strengthened in 2015 by the establishment of a national accident investigation body for air, maritime and rail transport. The National Investigation Commission of Serious Incidents and Accidents in Transport established in 2014 has worked independently of the Ministry of Transport since 2015 and has its own budget. It is now fully operational.

On **road transport**, Montenegro is partly aligned with the EU *acquis*. Further efforts are needed, particularly on the transposition and implementation of the social *acquis*, road safety rules and standards and on updated road safety statistics. The law on road traffic safety was adopted in 2012 and followed up with subsequent amendments and relevant implementing legislation. Montenegro also strengthened its legislative framework with the adoption of yearly action plans to implement the 2010-2019 road safety strategy. The 2016 programme for reconstruction and maintenance of state roads amounts to EUR 44 million.

The law on transport of dangerous goods was adopted in 2014. However, Montenegro must monitor better its implementation, including by establishing a national body for the control of transport of dangerous goods. Montenegro is partially aligned with the *acquis* on access to the market for goods and passenger transport. The legal framework regulating driving times and introducing tachographs has been partially harmonised with the *acquis*, but Montenegro needs to further improve enforcement in the areas of roadside checks and inspections.

Access to the haulage market and to the international market for coach and bus services is regulated by the law on road transport which does fully align with the *acquis*. No progress was made on clean and energy-efficient road transport vehicles or on intelligent transport systems. Cycling as an alternative and environmentally friendly form of transport in cities has not been given sufficient attention.

On the **rail transport** *acquis*, the State and the passenger operator concluded a contract to compensate for losses in operating rail passenger services. The authorities of Albania and Montenegro completed talks on five different protocols under new border crossing agreement. The role and functioning of the Railway Directorate, the national safety and regulatory body, needs to be further enhanced. The Railway Directorate also serves as the procurement body

for railways. However, it does not yet function independently of the Ministry of Transport. Although the railway market in Montenegro has been open to competition since 2014, to date, no private operators have shown interest in entering the market. Open access to the railway market, with transparent track access charges and capacity allocation, needs to be further aligned with the *acquis*. The law on railway safety and interoperability was adopted in 2014, but further efforts should be made for its implementation.

On **maritime transport**, in October 2015, phase I of the Vessel Traffic Monitoring and Information System became fully operational, thus establishing a legislative and technical framework for maritime transport monitoring. In July 2015 the parliament ratified the Paris MoU on Port State Control. However, Montenegro needs to ensure the implementation of the procedures, forms and information system, in particular with regard to port state control, selection of ships, expanded inspection procedures, recognised organisation responsibility, banning provisions and code of good practice. Montenegro ratified the 1974 Athens Convention and the 2006 Geneva Maritime Labour Convention. In July 2016, the parliament adopted the law on ships and port facility security. With regard to the systems for maritime education, training and certification for seafarers, Montenegro took measures to address the shortcomings in order to achieve EU recognition.

On **inland waterway transport**, the relevant EU legislation needs to be transposed and a new authority responsible for inland waterways established. Montenegro has not yet adopted the law on merchant shipping. Montenegro participates in the EU strategy for the Danube Region. A roadmap for the transposition of the inland waterway *acquis* exists but has not yet been used. However, it is not a signatory of international agreements on internal navigation or bilateral agreements with neighbouring countries.

On **aviation**, Montenegro further advanced with the *acquis* alignment under the first transitional phase of the European Common Aviation Area Agreement. However, some issues in the field of economic regulation still need to be addressed. To a large extent Montenegro has aligned its legislation with the EU *acquis* on the Single European Sky. On aviation safety, legislation is aligned with the EU *acquis*. Following the successful completion of the 'One-Stop Security' project in December 2015, Montenegro is now included in the EU list of third countries applying security standards equivalent to the common basic standards on civil aviation security.

On **combined transport**, Montenegro adopted in 2014 a law on combined freight transport that transposes the objectives and general principles of the *acquis*. However, significant efforts are needed to ensure full alignment with EU legislation and to further develop a balanced intermodal transport, also reflecting on the possible evolution of the EU legislation in this field.

#### 4.15. Chapter 15: Energy

Montenegro is **moderately prepared/has a good level of preparation** in the field of energy. **Good progress** was made in the reporting period, especially on legislative alignment with the third energy market package in electricity through the adoption of the new energy law in December 2015 and June 2016. In the coming year, Montenegro should, in particular:

- set up the stockholding body for the mandatory oil stocks;
- adopt implementing legislation for energy laws and begin their implementation;
- complete the alignment with the *acquis* on energy efficiency and implement it.

In the area of **security of supply**, Montenegro's energy policy up to 2030 was adopted in 2011 and its 2030 energy development strategy was adopted in 2014. In January 2016 Montenegro adopted an action plan for its implementation for the period 2016-2020.

An action plan on compulsory strategic reserves of oil and/or petroleum products was adopted in April 2015. Montenegro still needs to adopt the law on safety of supply of petroleum products, which will provide the basis for starting implementation of the Oil Stocks Directive. The current level of stocks is close to zero.

Montenegro has participated in ENTSO-E since its beginning. The interconnection of the electricity systems of Montenegro and Italy by undersea cable is under way and additional interconnections with Serbia and Bosnia Herzegovina are planned. Montenegro does not have a gas market. It signed a regional multilateral memorandum of understanding under the Berlin process to establish a day-ahead market and merge it with a neighbouring market by 2018.

Whereas the Third Energy Package on the **internal energy market** (both electricity and gas) was transposed through the energy law adopted in December 2015 and the law on cross-border exchange of electricity and natural gas adopted in June 2016, the implementing legislation still needs to be put in place. In June 2016, the power distribution activities of the Montenegrin Electric Power Company were legally separated from the supply function.

The electricity market has been fully opened for households since 1 January 2015, but no new providers entered the market. Customers connected to the high voltage network have been supplied under negotiated prices but the only consumer who switched to a new supplier was KAP, the country's aluminium plant which as of 2016 appears independently in the wholesale market as a self-supplier with its own balancing responsibility.

The Energy Regulatory Agency (ERA) is an operationally and financially independent authority with 30 employees. However, the framework guaranteeing its independence should be further improved. The ERA regulates prices for power from domestic producers based on market prices and also regulates the prices of grid services. Wholesale electricity market prices are freely formed. Cross-subsidies were abolished in 2010 for electricity and in 2011 for grid services. Tariffs for supply to vulnerable buyers were introduced in 2012.

Montenegro has a favourable environment for energy investments. Challenges concern the connection of new generation facilities to the electricity system. Investments are often hampered by expropriation procedures and preparation of detailed planning documents.

The **Hydrocarbons** Licensing Directive has been transposed into national legislation. Montenegro is at an advanced stage of preparation for full implementation of the Directive on the Safety of Offshore Operations. A concession contract for production of hydrocarbons was signed in September 2016. The gasification master plan has been finalised, including the list of the priority investment projects, but its strategic environmental impact assessment is still to be finalised. The Ionian-Adriatic Gas Pipeline is the leading option for the gasification of Montenegro.

The national action plan on the use of **renewable energy sources** by 2020 was adopted in December 2014. According to Montenegro's targets, by 2020, 33 % of its energy should come from renewable sources in gross final consumption, although the preliminary 2014 energy balance figure showed it had already reached this target. Montenegro has partially transposed the Renewable Energy Directive; implementing legislation still has to be adopted.

There are incentives for the use of renewable sources. However, their development, in particular on hydropower, should be in conformity with the relevant EU legislation on environment. The assessment of potential new projects should take into account the impact on

areas of high nature interest. The Energy Regulatory Agency issues certificates of origin. Administrative and grid related procedures are cumbersome for renewable energy producers. Sustainability criteria for biofuels and bio-liquids are yet to be implemented.

In the area of **energy efficiency** (EE), the Energy Efficiency Action Plan for 2016-2018 was adopted in June 2016. Montenegro plans to save 9 % of the average five-year final energy consumption by 2018. It set a 1 % renovation target for central government buildings in February 2016, and adopted an annual Energy efficiency operating plan of public administration institutions in April 2016. The Energy Efficiency Fund has not yet been established. The EE obligation schemes are yet to be established. Some parts of the energy efficiency *acquis* are yet to be transposed, in particular provisions related to the further transposition of the Energy Efficiency Directive and on the energy labelling of energy-related products.

The Directive on Energy Performance of Buildings has been transposed. Compliance with the minimum EE requirements is mandatory for all new and reconstructed buildings. Certification of energy performance of buildings has not started. Administrative capacities should be considerably strengthened, in particular for inspection supervision and local administration.

As regards **nuclear energy, nuclear safety and radiation protection**, Montenegro does not have a nuclear industry, a research reactor or any other facility producing radioactive materials, and national legislation prohibits the construction of nuclear facilities. Montenegro has a licensed and operational storage facility for radioactive waste, mainly from medical and industrial applications, in compliance with international standards since June 2012. National legislation on ionising radiation protection and basic safety standards is partly aligned with the *acquis*. The Nuclear Safety Directive is partly transposed. Montenegro does not intend to align with it fully because of the prohibition on nuclear facilities.

Montenegrin legislation is not aligned with the Directive on the supervision and control of shipments of radioactive waste and spent fuel. The amendments to the Convention on the physical protection of nuclear material were ratified in 2016. Montenegro implements the Treaty on the non-proliferation of nuclear weapons and additional protocols.

Montenegro is not part of the European Community Urgent Radiological Information Exchange (ECURIE) but it intends to join the European Radiological Data Exchange Platform. The national regulatory body for radiation and nuclear safety and security and radioactive waste management is under the Ministry of Sustainable Development and Tourism, the Environmental Protection Agency and the Administration for Inspection Affairs. Eight civil servants are working on protection against ionising radiation and radiation safety. A five- member advisory committee for protection against ionising radiation and radiation safety was set up in April 2012.

#### **4.16. Chapter 16: Taxation**

*EU rules on taxation cover value added tax and excise duties as well as aspects of taxing income from savings of individuals and of corporate taxes. 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 field.

In the coming year, Montenegro should in particular:

→ adopt and start implementing an action plan to address the issues highlighted by the Tax administration diagnostic assessment tool (TADAT) analysis.

On **indirect taxation**, there was no progress in alignment with the *acquis*.

On **direct taxation** there was no progress in alignment with the *acquis*. However, cooperation between the tax and customs authorities was strengthened. Montenegro should avoid tax measures that are difficult to administer and aimed only at some businesses, as they can potentially distort the market.

On **operational capacity and computerisation**, the tax authority's IT strategy was adopted in September 2015 and improvements were made to its IT system.

A TADAT diagnostic was made during the reporting period and its final report was accepted by Montenegro. This was produced by a consortium of international and national organisations, including the European Commission. Its findings were mixed: some areas, including the achievement of tax revenue outcomes and external oversight of the tax administration were assessed as adequate. However, the report found that several areas needed attention, notably the reliability of the taxpayer database. It also highlighted issues regarding risk assessment, the cross-checking of reports, disputes, the efficiency of collection and reporting systems and the public's perception of the tax system.

#### **4.17. 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 is **moderately prepared** in the area of economic and monetary policy. **No** significant **progress** was achieved. The work is advanced on finalising an action plan for *acquis* alignment on economic and monetary policy, as recommended last year.

In the coming year, Montenegro should in particular:

- adopt and implement the action plan for alignment with the *acquis*;
- ensure compliance with the law on budget and fiscal responsibility.

On **monetary policy**, Montenegro's present use of the euro, which was decided by the Montenegrin authorities under exceptional circumstances, is fully distinct from membership of the euro area. Montenegro does not have standard monetary policy tools at its disposal, as it uses the euro as legal tender. This leaves fiscal policy as the main macroeconomic policy instrument. A Central Bank decision on bank reserve requirements to be held at the Central Bank was adopted in May, allowing banks to hold up to 25 % of mandatory reserves in the form of domestic treasury bills until the end of March 2017. After that, the option is repealed to align with EU rules on the prohibition of public authorities' privileged access to financial institutions.

On **economic policy**, further alignment with the Directive on requirements for budgetary frameworks is needed. Work progressed under the strategy for implementing the 2010 methodology of the European System of Accounts standards (ESA 2010) in public finance statistics. The National Statistical Office MONSTAT, the Central Bank and the Ministry of Finance signed an agreement on cooperation on general government national accounts statistics in May.

While the macroeconomic framework is broadly consistent, the medium-term fiscal framework as presented in the economic reform programme (ERP) does not offer an appropriate policy response to cope with fiscal challenges. The 2015 budget has surpassed the fiscal rules' deficit and debt limits of 60 % and 3 % of GDP. The government plans to release a recovery plan after the October parliamentary elections.

While Montenegro has put in place a multiannual budgetary framework, its content and reliability has to be further improved. Since 2015, the State Audit Institution reviews the application of the fiscal rules. Montenegro continued to regularly submit fiscal notifications, which need to be gradually aligned with EU requirements.

The government submitted its 2016-2018 ERP on time. The authorities' analytical capabilities are gradually improving, but there is room for further improvement of economic policy formulation and coordination.

#### **4.18. 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 has achieved **some level of preparation** in the area of statistics. **Some progress** was made in the past year, notably on harmonising its statistical methodology with EU standards and by publishing some GDP time series in line with the European System of Accounts (ESA) 2010.

However, significant efforts are needed, especially to ensure the alignment of macroeconomic and business statistics with EU standards.

In addressing the shortcomings outlined below, in the coming year Montenegro should in particular:

- considerably strengthen the human and financial resources of the Statistical Office of Montenegro (Monstat);
- further align its statistics with ESA 2010, including government finance statistics.

On **statistical infrastructure**, the legal framework is in line with the European statistics Code of Practice. The Statistical Office of Montenegro (Monstat) is the main producer and overall coordinator of statistics. Its professional independence is enshrined in law. However, its administrative capacity is still limited due to insufficient resources: only 105 of 200 available posts have been filled, providing insufficient means for addressing shortcomings in relation to the closing benchmarks. The 2016 budget was increased by 20 %, but the premises of the office remain inadequate.

Monstat has signed 14 memoranda of understanding with administrative data providers, including 2 in the reporting period. Coordination of producers of official statistics continued to improve, though it needs to be further strengthened. The main classifications (NACE Rev. 2, ISCO-08, NUTS, CPA, GEONOM and ISCED 2011) are in compliance with the EU *acquis*. Monstat uses three statistical registers: the business register, the territorial units register and the statistical farm register, which are partly aligned with the EU *acquis*.

Data transmission to **Eurostat** continued and additional data were transmitted, but further improvement is still needed. The use of administrative sources should be increased.

Continued efforts will be needed to align **Macro-economic statistics** with ESA 2010, though progress was achieved in the reporting period. Monstat compiles annual and quarterly gross domestic product (GDP) using the production and expenditure approach in current and constant prices. In this reporting period annual and quarterly GDP time series for 2010-2014 according to the ESA 2010 methodology were submitted to Eurostat. Furthermore, Monstat published the GNI for 2010-2014 in accordance with the ESA 2010 methodology on its website. Monstat does not yet compile annual or quarterly sector accounts.

Considerable efforts are needed to develop government finance statistics, financial accounts and supply and use tables. The Central Bank compiles statistics on the balance of payments and these are partially aligned with the EU *acquis*. Foreign direct investment statistics are also partially in line with the EU *acquis*. The harmonised index of consumer prices (HICP) and purchasing power parities (PPP) are mostly aligned, with the HICP inventory submitted in November 2015. The excessive deficit procedure (EDP) tables were submitted for the first time in October 2014 and continued to be submitted in the reporting period, but they are only partially aligned with ESA 2010. For the purpose of implementing ESA 2010, a trilateral agreement between Monstat, the Central Bank and the Ministry of Finance was signed in May 2016. This should help establishing a closer cooperation between the three institutions.

In structural **business statistics** and short-term business statistics (STS), further quality improvements, the introduction of kind-of-activity units and an increased coverage of variables are necessary. In STS compliance has improved over the reporting period, but further improvement is necessary, in particular for the service sector. The Business Register represents a good basis for statistical production and sampling, but needs more frequent updates and better coverage of small businesses. PRODCOM (list of products of the European Community) is aligned, but no foreign affiliates' statistics (FATS) have been received by Eurostat. Tourism statistics are partially compliant and in April 2016 a survey on tourist activity of the Montenegrin population started for the first time; statistics on air transport have not been received by Eurostat, but statistics on maritime transport is partially aligned and work on road freight statistics has started. Research and development data are in line with the EU *acquis*.

In **social statistics**, the survey of income and living conditions (EU-SILC) is conducted since 2013, but further compliance is needed. Initial steps were taken to implement the European system of integrated social protection statistics (ESSPROS). Labour market statistics are broadly aligned with the EU *acquis*, work started to produce structure of earnings data but the labour cost index still needs to be compiled. Crime statistics are partially in line with Eurostat's annual data collection requirements. Eurostat receives migration flow data without metadata and has not yet received data on asylum and acquisition and loss of nationality.

**Agricultural statistics** are partially aligned with the EU *acquis*. Crop production data of improved quality were recalculated for the period 2007-2013 and sent to Eurostat in October 2015 together with the data for 2014. In addition, the data for 2015 have been sent in July 2016. Work started on economic accounts for agriculture, the agricultural price index and the agriculture labour input. **Energy statistics** are fully compliant for annual data and partially compliant for monthly data. Energy price statistics are fully compliant. In **environment statistics**, waste statistics are partially compliant. Statistics on environmental accounts, which include among others protection expenditure and material flow accounts, have not yet been received by Eurostat.

#### **4.19. Chapter 19: Social policy and employment**

*EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social dialogue at European level.*

Montenegro has achieved **some level of preparation** on social policy and employment. **Some progress** was made during the reporting period. The reform momentum needs to continue so that changes translate into improved services to citizens. Alignment with the *acquis* needs to be ensured. The critical labour market situation continues to be a key issue.

In the coming year, Montenegro should in particular:

→ increase the allocations for the active labour market measures targeting youth, women and

hard to employ people;

→ repeal the legislative measures discouraging woman participation in the labour market.

In March, the government reported for the first time on its action plan for gradual *acquis* alignment and capacity development on social policy and employment.

On **labour law**, the Regulation on subsidies for employing certain categories of unemployed people was adopted in December 2015 to foster the economic contribution of the most difficult-to-employ categories, including the Roma population, the long-term unemployed and people over the age of 50. However, the new labour law is planned to be adopted in 2017 and the major pieces of EU legislation are still to be transposed. Child labour remains a concern in Montenegro, particularly child begging.

On **health and safety at work**, the Strategy for improving the quality of health and safety at work 2016-2020, the accompanying action plan and three rulebooks were adopted. The Labour Inspectorate continued its operations to improve working environments. Montenegro does not have a National Institute for Occupational Health or a population-based registry on work-related injuries.

**Social dialogue** needs to be improved, particularly in the private sector and at the local level. A new mandate of the Social Council of Montenegro started and adequate capacity to perform its functions should be assured.

On **employment policy**, the government adopted in December its new 2016-2020 national strategy for employment and human resources development and the accompanying 2016 action plan. The 2016 ERP prioritised the general improvement of human resources capacities and increased access to the labour market for hard-to-employ people. The long-term unemployed, in particular women and young people, can achieve better inclusion if the linkage between activation measures and social protection is strengthened. Accurate primary data and reliable statistics remain an obstacle.

The 2016 action plan for combating the grey economy was adopted in March. The situation is critical as every third person is working in informal sector.

The amendments to the law on social and child protection ensuring a life-long subsidy to mothers of three or more children diminish the women participation in the labour market and act as disincentives to work and early exits from the labour market.

As regards preparations for the **European Social Fund** (ESF), Montenegro is currently implementing its first operational programme for human resources development (2012-2013) as a precursor to the ESF. The multi-annual Action Programme on Employment, Education and Social Policies for 2015-2017 was adopted by the European Commission in December. (See also *chapter 22 — Regional policy and coordination of structural instruments*).

On **social inclusion and protection**, in April the government reported on the implementation of its strategy for social and child protection. Local social inclusion plans have been developed in nearly all municipalities, but adequate financial resources for their implementation need to be ensured.

The Institute for Social and Child Protection is operational, but its capacities need to be strengthened. The de-institutionalisation process has moved forward, the promotion of foster care continued and progress has been made regarding the welfare system awareness of children rights. The deinstitutionalisation process needs to continue in parallel with the increase of foster families and community based services. Nine day-care centres were founded and a centre for children with development disorders is operational in Podgorica since April.

A new 2016-2020 strategy for the integration of people with disabilities was adopted in September 2016. The number of employed people with disabilities remains very limited, and resources from the professional rehabilitation fund need to be better utilised. The 2016-2020 strategy for social inclusion of Roma and Egyptian population<sup>4</sup> together with its 2016 action plan were adopted in March, but more needs to be done regarding the social inclusion of Roma.

The introduction of the Social Card-Social Welfare Information System Phase II continued successfully. A Department for Development of Social Services and a Social Inspectorate were established, but the decentralisation of standardised local social services has not yet been rolled out and the cooperation with NGOs in this area should be strengthened.

**On non-discrimination in employment and social policy**, Montenegro did an analysis on 56 laws and regulations to determine which legislation had been harmonised with the law on prohibition of discrimination against persons with disabilities. Further alignment with the UN Convention on the rights of persons with disabilities is recommended (See also *chapter 23 — Judiciary and fundamental rights*).

**On equality between women and men in employment and social policy**, support to single parents remains very limited, both in terms of financial aid and service provision. In October, the government's report on the implementation of the Convention for elimination of discrimination against women showed that women continue to be underrepresented in the labour market. More measures are also needed to overcome undeclared work, inactivity and unemployment among women. Gender-segregated statistics and gender analysis should be systematically carried out.

#### **4.20. Chapter 20: Enterprise and industrial policy**

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

Montenegro is **moderately prepared** on enterprise and industrial policy. **Some progress** was made in this field through the adoption of an industrial policy until 2020, a key 2015 recommendation. There is a need to further build up administrative capacity and ensure strong inter-ministerial coordination.

In the coming year, Montenegro should in particular:

- start implement the industrial policy in close cooperation with the industry and other relevant stakeholders;
- continue to strengthen non-financial and financial public-sector support for SMEs and bolster authorities' administrative capacity.

On **enterprise and industrial policy principles**, in June the government adopted its industrial policy for up until 2020, accompanied by an action plan. Given the wide range of actors involved, strong coordination by the Ministry of Economy is needed for the policy to be successfully implemented.

The results of the Small Business Act assessment 2016 indicate that Montenegro showed some progress in its institutional and regulatory environment for SMEs and good progress in lifelong and entrepreneurial learning. At the same time, increased efforts to strengthen

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<sup>4</sup> All these groups are considered under the wider "Roma" umbrella term under the EU framework for National Roma Integration Strategies.

business support services could assist SMEs' integration into global value chains, promote innovation and facilitate their access to credit. Further simplification of business-related legislation should be a priority.

The Decree on the promotion of direct investments was updated, significantly lowering the qualifying investment criteria for incentives. In spite of improvements, administrative procedures for issuing permits and licences remain costly and time consuming.

On **enterprise and industrial policy instruments**, the value of financial support provided by the Investment and Development Fund continues to increase, reaching EUR 117 million in 2015. Nevertheless, non-financial and financial public-sector support for SMEs and the authorities' administrative capacity need to be further strengthened.

Montenegro participates in the EU's COSME competitiveness programme. There is a need to create effective operational structures to apply for EU funding under COSME so that Montenegrin applicants can produce good quality proposals with a high likelihood of success.

On **sector policies**, Montenegro adopted its action plan to implement the 2015-2019 strategy for lifelong entrepreneurial learning.

#### **4.21. Chapter 21: Trans-European networks**

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

Montenegro is **moderately prepared** in the area of trans-European networks. Some progress was made in the past year on the Connectivity reform measures, both in energy and in transport.

On **transport networks**, Montenegro continued to participate in the South East Europe Transport Observatory and in the Western Balkans 6 connectivity agenda. Further steps were taken in constructing the priority Smokovac-Mateševo section of the Bar-Boljare highway project (the extension of the Orient East-Med core corridor in the Western Balkans), although there are delays. Construction permits for one tunnel and one bridge have been issued so far, as well as the environmental impact assessment, the latter however not compliant with EU standards. The main design and construction permits for the remaining major sections have not yet been issued.

Montenegro and Albania signed a Memorandum of Understanding with a Chinese contractor on the construction of the Adriatic-Ionian motorway in 2015. The National Investment Committee adopted in December 2015 a single Project Pipeline containing 64 priority infrastructure, including 9 transport projects on the core network. The list reflects national strategic priorities for infrastructure development over the next 10 years. There is a need to continue working on further developing the pipeline with projects that would remove existing bottlenecks on the comprehensive network towards neighbouring countries, such as Bosnia and Herzegovina and Albania. Montenegro made some progress on implementing the Connectivity reform measures on transport agreed at the 2015 Vienna summit.

On **Trans-European Energy networks**, the construction of the undersea interconnection cable with Italy continued. Montenegro made some progress on implementing the Connectivity reform measures on energy agreed at the Vienna summit. In the context of the 2016 Paris summit, a roadmap for the regional electricity market for WB6 was agreed. Montenegro, Croatia, Bosnia and Herzegovina and Albania agreed at a ministerial meeting in May 2016 to set up an operating body to develop the Ionian-Adriatic Pipeline. The body will be based in Montenegro.

## **4.22. 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 its implementation, which requires adequate administrative capacity and sound financial management of project design and execution.*

Montenegro is **moderately prepared** on regional policy and coordination of structural instruments. **Some progress** was made in the last year. The trend in planning and procurement needs to be strengthened and project preparation and strategic planning capabilities need to improve.

In the coming year, Montenegro should in particular:

- continue implementing the action plan for meeting requirements deriving from the EU cohesion policy.

On the **legislative framework**, work started on preparing the methodological requirements for national development planning documents.

There were no developments on the **institutional framework**. On **administrative capacity**, the working group for accession negotiations on chapter 22 was established in November. A number of high level staff changes took place, among them a new National Authorising Officer and a new Head of the Operating Structures for Component III were appointed. A considerable staff reduction in the implementing body and a change in the operating structure could potentially breach the accreditation decision for IPA, component III.

On **programming**, the Operational Programme Regional Development 2016-2020 was prepared, covering the transport, environment and competitiveness and innovation sectors. The multi-annual Action Programme for Education, Employment and Social Policies 2015-2017 was adopted by the European Commission in December 2015. On **monitoring and evaluation**, sectoral monitoring committees for IPA components III and IV were organised in December and November 2015 and June 2016.

On **financial management, control and audit**, the State Audit Institution started to apply the guidelines on audit quality control in 2015. In October 2015, the Senate adopted the code of ethics for state auditors and other employees in the State Audit Institutions. Internal audits were conducted to determine how human resources management functions at system level and horizontal functioning.

## **4.23. 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 anti-corruption measures are of paramount importance, as is respect for fundamental rights in law and in practice.*

Montenegro is **moderately prepared** to apply the *acquis* and European standards in this area and has made **some progress** overall. The legislative framework on the judiciary was strengthened to increase its independence and professionalism but has not yet been fully implemented. Institutions have been set up or strengthened. However, corruption remains prevalent in many areas and continues to be a serious problem. On fundamental rights, Montenegro is gradually shifting from incorporating EU standards into its legal framework to establishing an institutional framework with the potential to effectively protect and enforce human rights in practice.

In the coming year, Montenegro should in particular:

- increase capacity to carry out financial investigations, and establish a track record of

seizure and confiscation of criminal assets;

→ strengthen the independence, accountability, professionalism and overall effectiveness of the judicial system;

→ ensure that the whole system is able to investigate, prosecute and punish human rights violations as well as effectively protect victims.

(See also the specific recommendations on the judicial system, the fight against corruption and freedom of expression in sections 2.3 and 2.4)

As part of the ‘new approach’ to the rule of law, and in line with the negotiating framework, this chapter was opened in December 2013 after Montenegro adopted a detailed action plan.

## Judiciary

### Strategic documents

In October 2015 and March 2016, the government adopted the second and third half-yearly reports on action to implement the 2014-2018 judicial reform strategy. The third report stated that 4 % of measures had been partially implemented, and 10 % had not been implemented.

### Management bodies

The Judicial and the Prosecutorial Councils adapted their rules of procedure and set up the new bodies required by the law on the Judicial Council and on the rights and duties of judges, and the new law on the State Prosecutor’s Office.

The 2016 budget of the Judicial Council was EUR 750 331, compared with EUR 715 383 in 2015. The 2016 budget of the Prosecutorial Council was increased to EUR 411 074 from EUR 246 970 in 2015. Additional employees have been recruited in both Councils. All judges in the Judicial Council and one prosecutor in the Prosecutorial Council have had their workload reduced by 50 %. Even though further strengthening of the administrative and professional capacity of both Councils is needed, they should in principle be able to implement the new systems for recruitment, professional assessment, promotion and disciplinary accountability, and they should improve their strategic budget and human resources planning.

The Prosecutorial Council needs to take further steps to increase the transparency of its work.

### Independence and impartiality

Following the appointment of misdemeanour judges and court presidents, the new misdemeanour court system became operational in November 2015. As of September 2015, several other judges have been appointed.

The procedure of reappointment of state prosecutors was finalised in December 2015 in line with European standards. All former deputy state prosecutors have been elected state prosecutors. The number of presidential pardons granted further dropped in 2015. Out of 130 requests, the president granted a pardon in 11 cases (2014: 23 cases). Montenegro needs to take further steps to exclude any perception of political influence on the work of judges and prosecutors.

### Accountability

In 2015, the Commission for monitoring the implementation of the code of ethics for judges dealt with 15 cases and in the first half of 2016 with 7 cases (2014: 8 cases). Breaches were established in two cases which are currently under appeal. For prosecutors there were 2 cases

(no cases in 2014); in one of them, a breach of the code of ethics for prosecutors was established.

Disciplinary proceedings were started against 3 judges in 2015 and against 1 judge in the first half of 2016 (2014: also 3 cases), so far resulting in minor sanctions. All 4 disciplinary cases against prosecutors initiated in 2015 (no cases in 2014) were dismissed. Not all cases that give grounds for disciplinary action were followed up.

Mechanisms to detect breaches of integrity rules and to enforce disciplinary penalties are not yet effective. Montenegro needs to continue raising public awareness of existing complaint mechanisms. The possibility of challenging the dismissal of complaints before the Judicial and Prosecutorial Councils should be introduced. The adoption of integrity plans and appointment of integrity managers was completed last year in all courts and prosecution offices. This April, the Judicial and the Prosecutorial Councils also adopted integrity plans.

The judicial inspection system does not manage to ensure nor raise accountability standards. In 2015, altogether 50 courts, state prosecutor's offices and misdemeanour bodies were inspected by the three staff services under the Ministry of Justice. Several irregularities were detected in courts (related to registers); only in one basic prosecutor's office were irregularities detected (related to registers). Fewer but more thorough inspections should be performed, including unannounced checks.

Following the introduction of the bailiffs system in spring 2014, disciplinary responsibility of bailiffs has become a cause of concern. Disciplinary proceedings were instituted against bailiffs in 2015 in 19 cases, and 4 in the first half of 2016. In 8 cases disciplinary measures have been issued, including one measure of temporary prohibition of performing the activity of a bailiff. Amendments to the law on bailiffs adopted in July 2016 are aimed to address the problems which arose in practice in respect of regulating the disciplinary responsibility of bailiffs. Further steps need to be taken to address the problem of bailiffs' non-compliance with the professional and ethical standards.

#### Professionalism and competence

The adoption of secondary legislation on the new systems for countrywide recruitment, regular professional assessment, and promotion of judges and prosecutors was completed in December 2015. The law on judicial exams and on trainees in courts and prosecution offices was adopted in July 2016. Specialised bodies under the Judicial and Prosecutorial Councils were also set up.

The new system for recruitment of judges and prosecutors which should guarantee uniform, objective, and transparent assessment of candidates applies from 2016. However, nation-wide recruitment of new judges and prosecutors has not yet taken place since there was no need for new recruitment. The emerging vacancies have been filled through internal publications. In 2015, both the Judicial and the Prosecutorial Council selected several candidates other than those who had achieved the highest scores, without giving sufficient reasons for their decisions. In September the Prosecutorial Council decided to publish the first public call for recruitment of prosecutors under the new system.

The new system of regular professional assessment has started its pilot phase in Niksic's Basic Court and in Cetinje's Basic Prosecution Office.

#### Quality of justice

The Judicial Training Centre is now an independent institution following the adoption of the law on the training centre for judges and prosecutors in September 2015. The Centre continued to provide training to judges, prosecutors and judicial advisers. It also offered e-

learning programmes. For 2016, it was allocated its own budget of EUR 399 724, an increase of 135.2 % (2015: EUR 170 700). However, it still has to rely on donor support for certain specialised training. The Centre's Board was appointed in November 2015, its Programming Council in December, and its Director in February. Currently, the Centre has only 5 of the 19 employees provided for in the act of systematisation adopted in March. Its administrative capacity needs to be enhanced, and adequate premises should be provided without delay.

Instructions for collecting statistical data in compliance with European Commission for the Efficiency of Justice (CEPEJ) guidelines have not yet been fully implemented. 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. The reliability of judicial statistics continues to raise serious concern.

A new IT strategy for replacing the PRIS, Montenegro's judicial information system was adopted in June. Its implementation needs to be backed by adequate financial and human resources and a clear allocation of responsibilities.

Analysis of the data collected in the case-weighting study carried out in nine courts in the first half of 2015 was completed in December. Follow-up of the recommendations in the final report should include adopting new, realistic standards for the workload of judges, based on case complexity.

The 2016 budget for the judiciary is EUR 34.6 million (0.89 % of GDP), which is 26 % more than the 2015 budget (EUR 27.1 million). In 2016, EUR 26.6 million was allocated to courts (2015: EUR 20.8 million) and EUR 7.6 million to prosecutors' offices (2015: 6.3 million). Given that the largest part of the budget is spent on salaries, the funds allocated are insufficient, in particular to cover investment needs.

In 2015, the total number of cases referred to and solved through mediation (excluding labour disputes) fell significantly (in 2015, 517 cases were resolved through mediation, compared with 869 in 2014). The total number of labour disputes referred for mediation to the Agency for Peaceful Settlement of Labour Disputes was 3 679, of which 2 765 were resolved. The impact of alternative dispute resolution remains low and the use of mediation needs to be promoted further both among judges and parties to the disputes.

### Efficiency

No consistent data on clearance rate (i.e. ratio of solved cases to new cases filed) and the total number of pending cases at the end of the year is available for 2015. The reported figures suggest that there has been no significant change in performance of the courts in comparison to both 2014 and 2013.

The total number of cases older than three years pending before all courts has fallen further, to 2 437 at the end of 2015 (2014: 3 192). In 2015, the disposition time, i.e. the average time from filing the case to a decision, was 162 days for first-instance proceedings in civil cases and 138 days for commercial cases (2014: 237 days for civil cases and 203 days for commercial cases). Despite this improvement, Montenegro needs to continue to work on increasing the efficiency of the judiciary, monitoring backlogs and reducing the number of cases pending.

In 2015, the Constitutional Court resolved 862 constitutional appeals concerning alleged violations of human rights and liberties (2014: 743). The number of incoming constitutional appeals increased to 1 109 (2014: 772). The total number of cases pending before the Constitutional Court has further increased (1 606 cases compared to 1 396 in 2014). Of the pending cases, 1 443 are constitutional appeals. The efficiency of the Constitutional Court

needs to be improved to cope both with the backlog and the increasing influx of constitutional appeals and to be able to solve cases within the 18 months' timeframe prescribed by law.

The number of incoming enforcement cases to be processed by the courts has been further reduced, as a consequence of the introduction of the bailiff system (2014: 23 452; 2015: 7 851). The backlog of old cases pending before courts has also been reduced. However, despite a notable decrease, the number of pending enforcement cases is still considerable (end of 2015: 119 346; end of 2014: 162 826). The Podgorica Basic Court, the court most affected by this problem, started implementing specific measures to increase the pace of backlog reduction. A system monitoring the recovery rate, costs and duration of enforcement proceedings carried out by bailiffs at central level is in the process of being set up. Enforcement of civil and administrative decisions remains problematic.

Work on a proper needs analysis to further rationalise the court network should continue. It should draw on the data and conclusions obtained through the case-weighting study and assessment of human resources needs in the medium-term, together with a cost-benefit analysis of past and planned reforms. Better human resources management is of the utmost importance.

#### Domestic handling of war crimes cases

Implementation of the war crimes prosecution strategy adopted by the Supreme State Prosecutor's Office started in September 2015. The Special Prosecutor's Office launched investigations on 6 cases. It has established cooperation with the prosecution services of the neighbouring countries with a view of exchanging data and coordinating activities. It took over prosecution in one case previously handled by the Serbian War Crimes Prosecutor's Office. It has also been assessing whether to take over prosecution in two cases from the Prosecution Office of Bosnia and Herzegovina. The Office has also re-established cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) and reached an agreement on obtaining access to ICTY's databases.

By June 2016, 110 court decisions on claims for compensation became final and a total of EUR 1 097 446 was awarded. In 33 cases, first-instance proceedings are still pending.

Despite some positive developments in the reporting period, Montenegro's prosecution service needs to demonstrate a more proactive approach in following up outstanding allegations of war crimes. The judicial decisions reached so far have contained legal mistakes and shortcomings in the application of international humanitarian law. Montenegro needs to step up its efforts to fight impunity, and to effectively investigate, prosecute, try and punish war crimes in line with international standards. Charges of command responsibility, co-perpetration and aiding and abetting have so far not been brought. Montenegro also needs to ensure that victims of war crimes have equal access to justice and compensation, and that their claims are processed within a reasonable time.

#### **Anti-corruption policy**

##### Track record

###### *Prevention measures*

Montenegro has made some progress in establishing a track record in the prevention of corruption. However, in all areas of prevention of corruption, penalties provided for by law have not been applied effectively. Misdemeanour bodies' practice of imposing very lenient penalties, in most cases below the statutory minimum, is far from having a deterrent effect and counteracts effective enforcement of rules to prevent corruption. The Anti-Corruption Agency should use its power to directly impose misdemeanour penalties.

In 2015, the Commission for the Prevention of Conflicts of Interest checked the asset declarations of 2 402 public officials (2014: 2 428). The number of public officials found to have reported incorrect data fell almost by half in 2015 (2015: 347 2014: 629). From 1 January 2016, the Anti-Corruption Agency took over the Commission's responsibilities. For the submission period 2015/16, 92.1 % of public officials submitted income and asset declarations within the prescribed time-limit (2014/2015: 97 %). In the first half of 2016, the Agency checked 832 asset declarations; irregularities were established in 12 cases. The Agency needs to develop proper risk assessment methods for checking asset declarations.

In 2015, the Commission's new powers to enquire into inexplicable wealth were used in 111 cases. In 67 cases, public officials submitted evidence relating to acquired income and assets. Misdemeanour proceedings were launched in 44 cases. In the first half of 2016 the Agency initiated 13 enquiries into inexplicable wealth. It closed proceedings in 7 of these cases establishing no irregularities after having received replies by the officials in question.

The Commission for the Prevention of Conflicts of Interest followed up 12 cases concerning **incompatibility of functions in 2015** (2014: 13). By cross-checking relevant databases, in only the first six months of 2016 the Anti-Corruption Agency identified and processed 48 cases of such cases. There is a good track record of resignations resulting from Agency decisions - by June 2016 54 public officials resigned from office or function.

Decisions on **conflicts of interest** have been limited to requests by public officials for an opinion. In 2015, the Commission for Prevention of Conflicts of Interest filed 719 misdemeanour charges against public officials for breaches of the law on conflicts of interest, which is considerably more than in the previous year (2014: 337). The majority of the 488 misdemeanour proceedings completed in 2015 resulted in a warning or minor fines below the statutory minimum. The data for 2016 indicates an increase in the numbers, as well as in the amount of fines imposed.

In 2015, the Ministry of Interior's internal control unit checked the asset declarations of 80 police officers. Disciplinary proceedings are currently under way against one police officer who failed to report an increase in property of over EUR 3 000.

The number of irregularities established in connection with the **funding of political parties and electoral campaigns** increased to 25 in 2015 (2014: 10) but it remains limited. They are all the result of *ex officio* checks and relate to procedural issues such as failure to submit annual reports on revenues and expenditures and failure to submit the decision on the amount of membership fees. Of the 6 misdemeanour proceedings launched by the State Electoral Commission, those already finalised have resulted in two warnings, and one imposition of fines in the amounts of EUR 500 and 100. In 2015, the State Audit Institution audited the annual financial reports of 20 political organisations for 2014, together with reports on the origin, amount and type of collected and spent funds by 46 groups that submitted electoral lists for the local elections held in 2014. The audit reports listed a number of irregularities found but these were not followed up. The Anti-Corruption Agency adopted six pieces of secondary legislation relevant to implementing the law on financing of political organisations and election campaigns. In the first half of 2016 the Anti-Corruption Agency instituted 86 misdemeanours proceeding concerning failure to comply with the legal obligations arising out of the respective legislation. In June, the Agency presented the report on oversight and control of the electoral campaign for the local elections in the municipality of Tivat. It found no major irregularities. Ahead of October parliamentary elections, the Agency focused its activities on control of compliance with the aforementioned legislation. It established numerous failures to report on spending by public institutions, and instituted proceedings against several political parties and other political subjects. It also carried out a number of administrative inspections.

However, the Agency failed to demonstrate capacity for results-oriented strategic planning of their control activities which would be based on a clear risk-assessment and which would allow to focus on more in depth controls, instead of overstretching its capacities by attempting to monitor overall compliance of all the entities with all the obligations arising from the legislation.

In 2015, out of a total of 4 434 initial requests for **access to information** made to public bodies, the information requested was not provided in 805 cases (2014: 4 058 requests; 1 007 not granted). The Agency for Personal Data Protection and Free Access to Information received a total of 1 431 complaints in 2015 (2014: 1 753). Of these, it upheld 1083 (2014: 1 332). The majority were cases of administrative silence (869), hence cases where the requests remained unanswered by the public institutions to which they were addressed. Court decisions on access to information are not effectively enforced. It is also a matter of concern that in some cases first-instance authorities seem to abuse the possibility of declaring requested documents confidential in order to restrict access to information. Another point of concern is a high percentage of requests that remain unanswered. Public institutions need urgently to improve implementation of the law and comply promptly with access to information requests, especially in corruption-prone matters.

Secondary legislation on the **protection of whistle-blowers** was adopted in December. No criminal charges were brought for dismissing whistle-blowers in 2015. All previous cases were dismissed following preliminary investigations. In the first six months of 2016, the Anti-Corruption Agency received 40 reports from whistle-blowers and 5 requests for whistle-blower protection; so far 11 reports have been forwarded to other competent institutions, which have a legal obligation to inform the Agency on the outcome of the procedure. Out of the aforementioned 11 cases, 5 have been forwarded to the competent prosecution offices. One case in particular generated significant media coverage. In handling the case, the Agency was criticised for failure to show proactivity and its formalistic approach to the interpretation of the law. Political elite's reactions to this case demonstrate lack of sensitivity and constitute undue pressure on the institutions.

Apart from the police sector (9 cases initiated) and customs (3 cases) there have hardly been any cases demonstrating that **codes of ethics** for members of the legislative and executive authorities are effectively implemented. **Integrity plans** have so far been adopted in 643 (out of around 700) public bodies. In 648 institutions integrity managers were appointed.

As regards implementation of the law on **lobbying**, there were no applications to register lobbyists, which suggest that lobbying activities are being carried out outside the legal framework. This needs to be addressed through awareness-raising on the new obligations of lobbyists and public officials under the law on lobbying, as well as through a proactive approach in detecting, following up and imposing penalties for breaches of the law.

#### *Law enforcement*

As regards the development of a track record of **investigation, prosecution and final conviction**, the first final and enforceable judgment in a higher-level corruption case was issued in February against a former mayor of Budva who was convicted to 3 years and 10 months of imprisonment. He started serving the sentence in May. In another Budva corruption case, appeal proceedings are still ongoing. First-instance judgments were issued in two other cases against the former mayor of Nikšić. Charges were also brought against former mayor of Bar.

The new Special Prosecutor's Office for the fight against corruption, organised crime, war crimes, terrorism and money laundering demonstrated a proactive attitude and focused its

activities on high-level corruption cases. It started investigations in several cases involving high-level officials. These cases involve several former mayors, a former president of the Commercial Court, and a former President of the State Union of Serbia and Montenegro, among others. Eighteen plea bargain agreements have been concluded so far, including two with the former President of the State Union of Serbia and Montenegro. The prison sentences plea agreements so far endorsed by the court range between six months, and three years and eight months. The judgements endorsing the pleas bargains order the defendants to compensate the damaged municipalities either by return of property or payment of financial compensation in the total value of over 22 million euros. In two of the cases, a confiscation of assets has also been ordered in the total amount of 673 327 euros.

The vast majority of corruption allegations submitted to the state prosecution service continue to come from members of the public, NGOs and private companies. Few cases are submitted by the police, and hardly any come from official control or auditing bodies. In cases involving low and medium-level corruption, courts still apply sentences below the minimum penalties laid down in the criminal code. As regards **political influence** on law enforcement and judicial officials, members of the executive and the legislative branch should not interfere in the independent functioning of the judicial system.

Financial investigations have started being used in corruption cases but are still not systematic. Seizure and confiscation of criminal assets should be systematically ordered to detect and reduce financing of criminal networks.

### Institutional framework

#### *Prevention of corruption*

The new Anti-Corruption Agency became operational on 1 January 2016. Its mandate covers the main areas of prevention of corruption, including conflicts of interest, asset declarations, incompatibility of functions, integrity plans, and protection of whistle-blowers. It is also in charge of implementing the law on lobbying. The Directorate for Anti-Corruption Initiative (DACI), which used to be in charge of coordinating anti-corruption policy and awareness-raising, and the Commission for Prevention of Conflicts of Interest were merged into the new Agency. The Agency also took over responsibilities for checks on political party financing from the State Electoral Commission (SEC).

Secondary legislation on the Agency's internal organisation, procedures and powers has been adopted. Its budget for 2016 is the minimum laid down by law (0.2 % of the budget; i.e. EUR 1.54 million). The Agency started with 23 employees out of the intended 55. Since then, 26 more have been recruited via internal and external competitions. Intensive specialised staff training is needed, in particular, on political party financing, whistle-blower protection and lobbying. The IT system, including an electronic case management system and a system for electronic submission of cases has been in place since March. The Agency is connected to some, but not yet all, of the databases of relevant institutions.

The Agency needs to act in a transparent and independent manner and demonstrate a proactive attitude to its work in all areas covered by its mandate.

The integrity of its management and staff is key. Cases of alleged breaches of the law against several members of the Council, including rule breaches on conflicts of interest, incompatibility of functions and eligibility criteria for appointment, need to be resolved by following the relevant procedures. In two cases, court proceedings are ongoing.

The 2016 budget of the State Electoral Commission is EUR 2.1 million, considerably more than in 2015. However, Commission's administrative and expert capacity remains limited and

needs to be improved. A sound work plan and a needs assessment for training should be developed as a matter of priority. There is also an urgent need to improve transparency and cooperation with stakeholders.

Inspection capacity for public procurement needs to be further enhanced and full e-procurement introduced to help achieve more transparency. The number of inspections has increased since 2014, while the number of irregularities detected has fallen. A risk analysis methodology for prevention and early detection of corruption in public procurement was adopted in December. Checks on contract implementation remain a cause for concern, in the light of the weak internal audit function. Overall, there is a strong and urgent need to improve and further strengthen internal control, audit and inspection mechanisms in the public administration and to improve its cooperation with law enforcement authorities.

#### *Law enforcement*

The institutional and operational capacity of prosecutors, judges and police to fight corruption remains insufficient and needs to be improved, including through specialised training. Capacity to carry out financial investigations in corruption cases needs further improvement. While special prosecutors have been appointed, the recruitment of specialised experts is still pending. Of the planned 43 support staff positions, only 24 have been filled. The head of the Special Police Unit supporting the Special Prosecutor's Office was appointed but the Unit remains understaffed with only 13 out of 20 foreseen posts filled. In view of the number of cases dealt with by the Special Prosecutor's Office the capacities of this Unit should be considerably enhanced. There has been improvement in establishing the IT infrastructure, including setting up protected electronic channels between all prosecutors' offices and ministries, and installation of a case management system for the Special Prosecutor's Office.

The Special Prosecutor's Office needs to be provided with all the human and material resources it requires to carry out its mandate. Inter-agency cooperation, in particular between the police and the prosecution in pre-trial investigations, needs to be improved. The adoption of the amendments to the law on the Special Prosecutor's Office in July which transferred the competences for criminal offences related to the October elections from basic to the Special Prosecutor bear risk of increasing the already heavy workload of the Office.

In December 2015, a unit specialised in managing seized assets was set up in the Public Property Administration.

#### Legal framework

Implementing legislation for the 2014 anti-corruption law has been adopted.

Amendments to the law on the custom service were adopted in December and strengthened integrity and internal controls.

Parts of the law on the Special Prosecutor's Office, adopted in February 2015, that govern the status of police investigators working under the instructions of special prosecutors do not seem to sufficiently limit the risk of conflicting instructions and undue interference.

Montenegro decided not to follow the recommendation under Article 20 of the United Nations' Convention against Corruption and to criminalise inexplicable wealth.

#### Strategic framework

In July an operational document which includes unimplemented measures in areas sensitive to corruption contained in the expired 2010-2014 national strategy for the fight against corruption and organised crime was adopted. Their implementation will be monitored through the mechanism in place for chapter 23.

## Fundamental rights

Montenegro continued to comply with **international human rights instruments**. Montenegro further enhanced cooperation between its relevant institutions -and the most significant bodies and committees of the United Nations and of the Council of Europe. The country has drafted the required report on implementation of the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).

Cooperation with the **European Court of Human Rights** (ECtHR) remained good. All 9 cases under supervision remained under the standards monitoring mechanism. Since September 2015, the Court has found that Montenegro violated the European Convention on Human Rights in 2 cases relating to prohibition of torture, right to liberty and security and the right to a fair trial. The government has concluded friendly settlements in 9 cases pending before the Court, related to length of proceedings. A total of 158 new applications have been allocated to a decision-making body, bringing the number of pending applications to 140. To increase capacity in this area, a judge of the Podgorica Basic Court was seconded to the ECtHR's registry. Efforts to ensure more consistent application of ECtHR case-law to national rulings should continue.

As regards the **promotion and enforcement of human rights**, the capacity of the Ministry for Human and Minority Rights and the Ombudsman was reinforced and its staff continued to receive training. The Ombudsman needs to ensure that the gender equality referral mechanism is fully enforced and that the overall distribution of staff reflects the workload of the departments. The institution's capacity to effectively handle complaints has improved, as has the quality of the opinions delivered. Public trust in its independence should be built up. The process of accreditation to the International Coordinating Committee of National Human Rights Institutions is ongoing.

As regards **prevention of torture and ill-treatment**, Montenegro has continued to work towards fully implementing recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT). The National Preventive Mechanism continued to work as a separate department under the Ombudsman. Its capacity has improved; however, its independence needs to be strengthened. The Ministry of Justice needs to prescribe precise rules on the use of restraints as a means of coercion, in line with international standards. Contingency plans need to be developed to better handle emergency situations in prisons, such as incidents involving verbal and physical violence. The episodes of violence that took place during protests by some of the opposition parties, in autumn 2015, and the delays in the progress of related investigations and prosecutions, show the difficulties of eradicating ill-treatment and establishing a record of deterrent sanctions. This also applies to cases of violence in prisons in the course of 2015. Small-scale refurbishment improved detention conditions; however, the treatment of convicts and detainees still needs to be brought into line with international standards, as does the screening and reporting capacity of prison medical services and their cooperation with judicial authorities.

Concerning the **prison system**, secondary legislation was adopted to introduce an alternative sanction system. Awareness-raising activities for the judiciary and training for probation officers continued. The capacity of the probation department in the Ministry of Justice will have to meet the projected increase in the number of community sanctions. Additional changes to the law on suspended sentences need to be considered, to ensure more flexibility in carrying out sentences. The prison health service remains understaffed and overall of poor quality; the majority of complaints filed by detainees refer to this area. Bringing this service under the authority of the Ministry of Health would help address this issue. The prison administration continued to run a literacy programme for prisoners and since November 2015

has been carrying out a programme to prevent juvenile delinquency and to reintegrate prisoners. However, the availability of rehabilitation programmes remains limited.

Implementation of the legal framework on **personal data protection** remains weak. To date, no data protection cases have been brought to court, apart from a relevant Constitutional Court opinion. Awareness-raising campaigns should continue, as should training for the judiciary, to increase its capacity to deal with such cases and to implement Eurojust standards in exchanging information.

**Freedom of thought, conscience and religion** continued to be guaranteed and upheld by law. Tensions between the Serbian and Montenegrin Orthodox Churches continued, and affected the drafting of a new law establishing the relationship between religious communities and the state. This law remains to be adopted, including to improve transparency and control of procedures for allocating state funds to religious communities.

As regards **freedom of expression**, several attacks against journalists and media property took place during the anti-government protests in September and October 2015. Two journalists were detained by the police and subsequently released. Some journalists received threats via social media. The competent authorities have taken some follow-up action to process these cases. Investigation and prosecution of past cases of violence against the media continued. Older cases, including the 2004 murder of an editor-in-chief, need to be solved and not only the perpetrators but those behind the attacks need to be identified. There has been limited progress, in particular as regards some of the cases involving investigative journalists.

The mandate of the ad hoc commission monitoring violence against the media expired in December 2015 without it having fulfilled its tasks. This failure can be explained by various factors, including strong polarisation between the government and parts of civil society, which made it difficult even to adopt joint recommendations. The police acted to prevent violence against the media by carrying out risk analyses and protecting journalists and premises possibly at risk. The government has implemented some of the commission's recommendations, particularly as regards reintroducing a reward for information about the 2004 murder case. The Commission was re-established in June 2016, with a larger representation of members from the media sphere. The Parliament formed an ad-hoc committee with a similar mandate.

The still high number of defamation cases points to weak self-regulation mechanisms and challenges in understanding the role of the media. There is still no uniform approach to penalties, suggesting that ECtHR case-law is not yet sufficiently known.

Campaigns targeting civil society activists have continued in certain media outlets, indicating that self-regulation remains ineffective, and that the lack of professional and ethical standards continues to be an issue of concern. The media community remains strongly polarised: there is not yet a recognised or trusted single forum for discussion although some steps have been taken in this direction. The OSCE-facilitated dialogue on improving ethical and professional standards in the media resulted in the adoption of a revised code of ethics for journalists; effective and uniform application of the code remains to be achieved. Dialogue between various self-regulatory mechanisms should continue with a view to further improving professional standards in media reporting.

After the adoption of amendments to the law on public broadcasting services, steps have been taken to ensure sustainable funding of the public broadcaster RTCG. Strengthening the editorial independence of the public broadcaster RTCG remains a priority. Its senior editorial management team resigned and was replaced in April 2016 in the framework of the political

dialogue between the government and the opposition. It is essential that RTCG ensures that all management changes are in line with the law.

A new law on public assemblies and public events was adopted in July. The law substantially improves the quality of regulation of **freedom of assembly and association**, in particular regarding state obligations, in line with European standards. Further improvements will be required at a later stage. Incidents between the police and the public during the 2015 opposition protests highlighted the challenges that law enforcement officers face in managing gatherings. The practical implementation of standards in this area needs to be strengthened.

The process of restitution of properties expropriated in the past is the main challenge affecting **property rights**. Procedures remain cumbersome, decision-making is slow and no progress has been made in the use of ECtHR case-law. Displaced persons permanently resident in Montenegro continued to face discrimination over access to land. The draft law on spatial planning and construction has raised concerns about repercussions on their property rights.

On **non-discrimination**, the law requires further alignment with the EU *acquis*; a working group has been set up to address shortcomings. The number of court cases remains very low, and the lack of proportionate and deterrent sentencing needs to be addressed. The Ombudsman's capacity to handle complaints has improved; however, further improvement is needed to ensure timely and quality follow-up on reported cases of discrimination.

As regards **equality between women and men**, concerns remain regarding the effective functioning of the gender equality referral mechanism established by the new law on gender equality, and to the overall economic empowerment of women. The Ombudsman's Office needs to increase its capacity in this field, partly by hiring staff experienced in gender issues. The implementation of the 2013-2017 action plan on gender equality has continued, focusing mainly on closing the gender gap in political life, and on awareness-raising. At local level, all municipalities have concluded memoranda of cooperation with the central Gender Equality Office. Activities at local level to promote gender equality should continue. In December, the government adopted guidelines for strengthening inter-institutional cooperation between non-governmental organisations and local communities in this area.

Gender-based violence continues to be a concern. Montenegro has taken initial steps to implement the Convention on preventing and combating violence against women and domestic violence. An inter-institutional body has been established by the Deputy Prime Minister, which includes representatives of the government, parliament and the Ombudsman. A unified database of cases of violence was set up in December to address the problem of statistical reliability and ensure better and more coordinated official help for victims. The helpline for victims of violence, in its first year of operation, has received a considerable number of calls, pointing to an overall lack of trust in state institutions among victims. Sustainability of the helpline needs to be ensured. A new 2016-2020 strategy on combating family violence was adopted in December. Multidisciplinary teams set up to respond to domestic violence have had clear protocols in place since September 2015. Further efforts need to be put into ensuring these teams are efficient. The capacity of existing institutions in this area, including the police and judiciary, will need to be strengthened to better protect victims and deter perpetrators.

Some progress was achieved in regard to **rights of the child**. The 2013-2017 action plan on children is being implemented. Amendments to the family law and to the criminal code remain to be adopted, tackling shortcomings related to the legal definition of the child. Montenegro has ratified the Third Optional Protocol (on a communication procedure) to the UN Convention on the Rights of the Child, but there is little record of its implementation. Challenges remain in coordinating policies concerning children; currently no single ministry

has overall responsibility. The last meeting of the Council on Child Rights was held in October 2015 and its capacity remains limited. Violence against children remains a concern, including for the low number of cases reported compared to the average in European countries. These children are exposed to exploitation and human trafficking; forced child marriages continue to be reported to NGOs, while only a limited number of cases are prosecuted.

Some progress was made on the **rights of persons with disabilities**. Following the 2015 adoption of a new law prohibiting discrimination against persons with disabilities, a thorough analysis of the legislation was carried out, and adjustments to the national framework were considered, to ensure consistency with the law, plus further alignment with international standards. One issue with the law is that it only allows complaints to be made by persons with disabilities, while the resulting court proceedings are lengthy and sentences non-deterrant. Some progress was made on accessibility of public buildings for people with reduced mobility. Beyond the initial 2013 planning, there is no overall vision of how to adapt public buildings still lacking the necessary facilities, including the country's main hospital. The lack of access to several public university faculties is an obstacle to freedom of choice in education.

The authorities continued to show overall openness towards promoting the rights of **lesbian, gay, bisexual, transgender and intersex (LGBTI) persons**. The Ministry of Human Rights and Minorities has taken over the supervision and monitoring of the relevant strategic framework, but lacks sufficiently experienced staff in this field. A new 2016 action plan has been adopted but it does not include a budget allocation. The initial phase of preparations for the law on civil partnerships has started and showed good cooperation between the relevant authorities and civil society. Cooperation between CSOs and the Ombudsman has also improved. The Third Pride Parade was held in December 2015, without any incidents and with a smaller police presence than in previous years. The situation remains difficult at local level, and within society itself, where acceptance of sexual diversity is slower. Targeted measures with a regional dimension should be inserted in the national action plan. Systematic anti-discrimination campaigns in schools and universities are still not in place. Attacks against LGBTI community members and activists continue. However, the improvement in the relations between the LGBTI community and the police is also reflected in more progress in investigations and in criminal convictions for attacks.

Issues of **Labour and trade union rights** are covered in chapter 19.

Montenegro has continued the analysis of the legal framework to align with the EU *acquis* in the field of **procedural rights**. Substantial efforts remain to be made to ensure full alignment with the European standards, notably on the rights of the accused persons and of victims' rights. Concerns remain as to the alignment of decisions regarding procedural guarantees with the ECtHR case-law, for instance in cases of prolonged pre-trial detentions. Montenegro will also need to ensure sufficient budgetary allocation to enforce such rights.

Shortcomings remain in the field of **minorities**. A new law on minorities has reduced the potential for conflicts of interest in procedures allocating and controlling state funds for minorities. It has also started to address concerns about the lack of transparency and overall institutional capacity in allocating and auditing such funds. Broader reform is awaited to put in place the necessary safeguards and solid controls and address the weaknesses of state bodies in this field so as to prevent abuses. Irregularities are continually detected in the reporting cycles related to the funds.

Some progress was made as regards **Roma** living in Montenegro. In March, the government adopted a new strategy and action plan on social inclusion of Roma and Egyptians in

Montenegro 2016-2020. The lack of an appropriate budget to implement it remains a concern. A third Roma seminar with the European Commission was held in July, bringing together all relevant stakeholders to discuss sectors in which progress is required to improve the life of the community. Recommendations from the seminar require thorough follow-up by all state institutions, and better coordination including with local authorities and civil society. Participation by Roma students in education at all levels continued to improve, but remains low overall, including in primary compulsory education; the drop-out rate remains high. In September 2015, the first Montenegrin-Roma and Roma-Montenegrin dictionary was published. Roma remain the most vulnerable and discriminated-against community in various areas of life, with Roma women being subject to double discrimination. Roma continue to be underrepresented in politics and have difficulty accessing the labour market and healthcare services, while Roma children are still exposed to child labour. The housing needs of domiciled Roma need to be addressed; in some municipalities the situation remains critical. It requires continuous monitoring to prevent evictions not in conformity with international standards.

Some progress was made in resolving the issues of formerly displaced and **internally displaced persons** (IDPs). The 2016-2017 strategy for finding durable solutions for IDPs in Montenegro, especially in the Konik area, was adopted in April. Following the expiry of the 2014 deadline for applications to be recognised as a ‘foreigner with permanent status’, the authorities are now gradually dealing with the backlog. 11 201 refugees from the former Yugoslavia legally reside in Montenegro, while the number of pending applications is 1352. It is still a matter of concern that there are more than 250 minors who are not yet registered, and therefore do not have any right of residence.

Montenegro has not yet introduced a separate procedure for determining statelessness, despite ratifying the relevant Convention in 2013. This denies access to rights for potential beneficiaries. According to estimates, 486 people in Montenegro consider themselves stateless — most of them from the former Yugoslavia. Following the adoption of amendments to the law on non-contentious proceedings, the basic courts started to issue positive decisions on the date and place of birth of persons born outside Montenegro’s health system. Construction of social housing is in progress in the Konik camp and in some other settlements. Social activities continued for stateless persons residing in the Konik area to help them integrate, as well as in Tivat, in line with the local action plan on Roma integration.

In the field of **citizenship rights**, Montenegro has started preparations to develop and implement an investors’ citizenship scheme. Special attention should be given to making sure there is a genuine connection between the country and the investor, prior to awarding citizenship.

#### **4.24. 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 implement the *acquis* correctly in this area. **Some progress** was made, through the continued implementation of the action plan for justice, freedom and security but so far results are limited, in particular in the fight against money laundering, trafficking in human beings and cigarette smuggling. Implementation of the new legal provisions should focus on strengthening cooperation between judicial and law enforcement authorities, and on the authorities’ specialisation in the different forms of serious crime. Reception centres for migration and asylum appear to be coping with the inflow of migrants passing through Montenegro. The centres represent a major step forward in the

establishment of a sound migration and asylum management system.

In the coming year, Montenegro should in particular:

- establish a track record of investigations, prosecutions, final convictions, seizures and confiscations in organised crime cases, with strong focus on those crimes where results are still lacking, such as money-laundering and trafficking in human beings;
- continue to improve its capacity to deal with mixed migration flows, paying particular attention to *vulnerable* groups and minors and the integration of migrants/refugees;
- work on enhancing cooperation with neighbouring countries on border management issues; increase the human and material resources devoted to modernising border infrastructure and to surveillance of the green border.

(See also the specific recommendations on the fight against organised crime in section 2.3)

As part of the ‘new approach’ to the rule of law, and in line with the negotiating framework, this chapter was opened in December 2013 after Montenegro adopted a detailed action plan.

### **Legal and irregular migration**

#### Institutional set-up and legal alignment

In December 2015, the government adopted a decision determining the annual number of temporary residence and work permits for foreigners for 2016; amendments to the law on foreigners were adopted in February 2016 to fine-tune the current provisions on temporary residence and work permits for foreigners. Further amendments are needed to complete the alignment of the legal framework with the EU *acquis*, especially on legal migration. The legislation also needs to be further aligned with the Protocol to the UNTOC Convention concerning the Smuggling of Migrants, including in relation to the criminal liability and aggravating circumstances.

A November 2015 contingency plan for responding to a large influx of migrants has not been triggered so far; the country is not on the main migration route to Western Europe. In April, Montenegro adopted a strategy for 2016-2020 and a 2016 action plan for reintegrating people returned under readmission agreements. It includes a set of reintegration measures and indicators for monitoring the process.

The Ministry of Interior has overall responsibility for coordinating the country’s migration policy and has local branches to issue temporary residence permits. The border police are in charge of foreigners residing in Montenegro for up to 90 days and of detecting illegal border-crossing. A specialised unit of the criminal police deals with the fight against irregular migration. The Ministry of Labour is responsible for matters relating to the integration of migrants and ensuring their rights, and for inspections aimed at uncovering illegal employment. The overall division of responsibilities poses challenges for the development and coordination of an integrated approach to migration.

#### Implementation and enforcement capacity

The implementation of the new law on foreigners resulted, at the end of 2015, in the establishment of a migration application centre as part of the migration department of the Ministry of Interior, in charge of issuing residence permits. Electronic records on foreigners with a right to permanent or temporary residence, or to residence of up to 90 days, have been established. The staff received training in line with the new legal framework.

In 2015, the Montenegrin border police prevented 280 attempts to cross the border illegally, mostly by nationals of neighbouring countries (280 in 2014). 130 people were accepted under

readmission agreements. Two new police actions were conducted to dismantle smuggling networks. Two main cases of migrant-smuggling (route I and II, including a total of 27 facilitators) are being tried by the High Court in Podgorica.

The centre for irregular migrants accommodated 112 people in 2015, compared with 42 in 2014.

The readmission agreement with the EU is being implemented in a satisfactory manner. Montenegro is negotiating readmission agreements with the Russian Federation, Ukraine, Georgia, and Azerbaijan, Iceland and Turkey.

## **Asylum**

### Institutional set-up and legal alignment

Montenegro is party to the Geneva Convention. The law on asylum needs to be further aligned with the EU *acquis*.

The overall capacities of the country in this area are sufficient for the current flow of asylum seekers entering the country. The main institutions responsible for asylum are the Asylum Office of the Ministry of Interior, the State Asylum Appeals Commission and the Refugee Care and Support Office. The Asylum Office is the first-instance body in charge of determining international protection, and is also currently responsible for overall policy coordination. In 2015, it moved to new premises, with more staff and specialised facilities such as rooms for interviews, for families and a waiting room. The State Asylum Appeals Commission is the second-instance body. The members of the Commission are administrative court judges (a president and four members). The Commission is an administrative body; it needs to be further trained on asylum and international human rights law.

### Implementation and enforcement capacity

The Asylum Office has 12 posts for civil servants, of which 8 have been filled so far. It increased its operational capacity by training case handlers, particularly to better process applications on their merits. An IT system for case management was created. The lack of interpreters continues to be a problem. Policy on the integration of refugees needs to receive sufficient financial resources from the national budget and political support. There have been no reported cases of *refoulement* at the borders but awareness-raising among officers should continue.

In 2015, 1611 asylum applications were submitted (compared to 2 312 in 2014), most of them (1 526) in the first part of the year, before the northern Balkans route was opened. The vast majority of asylum applicants leave the country at an early stage in the procedure; however, an increasing number of decisions on protection were granted and currently 8 refugees and 8 persons granted subsidiary protection live in the country. The main challenges in the next few years will be to offer concrete prospects of integration into society, including local integration.

The reception centre for asylum seekers is, for the time being, accountable to the Ministry of Labour and Social Welfare. It has specialised staff such as social workers, psychologists, nurses. The ministry is also in charge of integrating people who receive international protection. Overall, the capacity of the reception centres for irregular migrants and asylum seekers is sufficient to respond to current needs. Concrete solutions have been found to ensure separate premises for unaccompanied minor migrants and handle increases in arrivals of vulnerable groups. Arrangements have also been made to accommodate unaccompanied minors in the existing centre for children in Podgorica, and to temporarily rent a centre, currently not in use, to accommodate additional families. Flows through Montenegro have

decreased, partly due to migrants' use of the northern Balkan route. The country needs to remain alert to shifts in the routes crossing its borders, and adjust national capacity accordingly.

Montenegro participates in awareness-raising events organised by the European Asylum Support Office (EASO).

### Visa policy

Montenegro finalised a detailed needs analysis for the Schengen action plan which includes the requirements and resources needed for the implementation of EU policy in this area. Amendments to the decree on the visa regime were adopted in March 2016, suspending short-stay visa requirements for nationals of Qatar, Kuwait, and Taiwan. Holders of travel documents of other countries with a residence permit in the United Arab Emirates may enter and stay, i.e. cross the territory of Montenegro for up to 10 days without a visa, with a tourist certificate. A new decree on the visa regime was adopted in May to waive requirements for passport holders from various countries. Citizens of Kazakhstan and Armenia have been exempted from short-term visas for the summer season (May–October 2016). Arrangements for a national electronic visa system have continued; the visa centre was set up in the Ministry of Foreign Affairs and European Integration as a central authority for visa issuance. Since July 2016 the new visa stickers are being tested at the Embassy of Montenegro in Belgrade. The number of visas issued at the borders remained low, and the reasons given for exceptions are in line with *acquis* requirements.

To prevent abuse of the visa-free regime with the European Union, Montenegro has continued to implement measures as recommended in the Commission's reports on post-visa-liberalisation monitoring, including in terms of better integration of the Roma community.

### Schengen and external borders

#### Institutional set-up and legal alignment

Overall, the **legislative framework** in this area requires further changes to bring it into line with the external border of the EU and with the Schengen *acquis*, notably on border control and local border traffic arrangements.

The border police, as a **sector within the state police** under the Ministry of the Interior, is the main agency in charge of performing border control and surveillance and has some responsibilities for migration. It has 3 regional offices and 12 local units, plus a mobile unit. The country still needs to set up a National Coordination Centre. The border police concluded cooperation agreements with the customs, veterinary and phytosanitary administrations and with the administration for the prevention of money laundering and terrorist financing.

Since 2009, the country has been implementing an integrated border management (IBM) strategy, which was reviewed in 2014 to bring it into line with the EU's concept of IBM. Further adjustments in 2015 aimed at increasing the focus on the objectives and establishing an efficient monitoring framework for the coming years. Implementation of the IBM strategy continued smoothly. Following a thorough needs analysis covering staffing, training, equipment and infrastructure, Montenegro needs to adopt a Schengen action plan. Among the challenges raised by the analysis, there is a shortage of border police staff and investment worth approximately EUR 200-250 million is still needed in the run-up to Schengen accession.

### Implementation and enforcement capacity

As part of the overall reorganisation of the Ministry of Interior, the number of regional border police centres was reduced from eight to three. However, the expected increase in **staff** available in the field has not taken place. Out of the total 1 428 posts foreseen in the border police, around 200 posts remain vacant, with an overall serious imbalance in gender. Shortcomings in the transparency and professionalism of the police recruitment system also affect the border police, which is in need of more specialised resources. This is to be addressed through the future police human resources reform and wider use of the train-the-trainers concept.

Implementation of the **integrated border management** strategy and action plan continued smoothly, with a focus on reorganising the border police to use resources more efficiently, to implement European and international obligations and to increase training skills and analytical capacity. More resources need to be devoted to modernising border infrastructure and to surveillance of the green border.

**Reconstruction** of some border-crossing points, to align them with European standards, has continued. The detailed analysis produced to prepare the Schengen action plan provides a good basis for planning future investments in this area.

Montenegro's track record of detected forged documents has improved since last year, primarily thanks to hits on the relevant national and international databases.

Inter-agency cooperation between the border police, the customs authorities and the Ministry of Interior/Police Directorate improved, including through mutual access to databases.

Cooperation with neighbouring countries continued to be good, particularly at technical level. Border demarcation agreements remain to be concluded with Serbia and Croatia. Montenegro is conducting joint patrols with neighbouring countries. A protocol on the establishment and functioning of the joint centre for police cooperation in Plav has yet to be adopted. The border demarcation agreement with Bosnia and Herzegovina entered into force in April 2016. All 44 unauthorised roads crossing the Montenegro and Bosnia and Herzegovina border are now blocked and an agreement on local border traffic is being negotiated. The border demarcation agreement with Kosovo has been ratified by Montenegro. So far 16 unauthorised roads have been identified along the border. A joint analysis has also been carried out with Serbia and 87 unauthorised roads identified; discussions whether to close all of them need to proceed in parallel with the negotiation of the local border traffic agreement with Serbia. The working arrangement with Frontex is being implemented smoothly; practical cooperation on risk analysis has continued, as well as on air border activities. Montenegrin officers participated in training organised by Frontex; their involvement in the Agency's activities and joint operations should increase.

A plan to fight corruption at the borders has been in place since 2014, but a track record of detection, investigation and prosecution remains to be established.

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

The new electronic system for monitoring cases of judicial cooperation (LURIS) has been fully operational since January 2016. It can produce detailed statistics on incoming and outgoing requests dealt with. A training plan is being implemented. In September 2015, Montenegro ratified the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. An agreement on cooperation between Montenegro and Eurojust was signed in May. A first set of training sessions on compliance

with data protection standards was delivered to officials from the Ministry of Justice and from the Data Protection Agency.

## Fight against organised crime

### Institutional set-up and legal alignment

In the field of police cooperation, alignment with the EU *acquis* has continued, including ensuring that new institutional arrangements are in place, and that national databases are gradually integrated with those from Europol and Interpol. With EU assistance, the basis for the Schengen Information System is gradually being incorporated into the national database and work on setting up the SIRENE office has continued. The 2015 operational agreement with Europol is being implemented, and since November 2015 a liaison officer has been posted to Europol headquarters. Cooperation with Europol has continued through exchanging information and integrating databases. Montenegro has also participated in joint operations against the smuggling of weapons and of narcotics and in training and analytical activities.

Montenegro is monitoring the implementation of 2015 amendments to the criminal procedure code. Over the reporting period, the implementation of the new law on seizure and confiscation of proceeds of crime continued, including though the adoption of the relevant implementing legislation. In December 2015, the State Property Administration became an independent body; it includes a department in charge of confiscated assets.

A police reform strategy for 2016-2020 was adopted in December 2015. A specific office was set up to monitor training and career processes. Shortcomings in the current police recruitment process remain, and need to be addressed, including by increasing transparent and merit-based entry to the police, and its overall professionalism.

The chief of the Special Police Unit attached to the Special Prosecutor's Office was appointed in April 2016 and recruitment is continuing; considering the number of cases dealt with by the team, the remaining vacancies need to be filled as a matter of urgency.

The concept of intelligence-led policing started to be implemented. The national serious and organised crime threat assessment (SOCTA) was reviewed at the end of 2015; nevertheless, there is still insufficient prioritisation of activities to dismantle criminal networks and seize and confiscate their assets. The Witness Protection Unit has mainly worked on cases of war crimes.

### Implementation and enforcement capacity

Montenegro's initial track record of enforcement further developed with regard to drug cases, smuggling of migrants, cigarettes, weapons and cybercrime. There have been no new cases on money laundering, or trafficking in human beings. For both areas, the overall capacity of the police and of judiciary remains extremely limited, partly for the lack of consolidated case-law. A major case of money laundering recently concluded with the acquittal of all defendants. Financial investigations are still not systematically launched in tandem with regular investigations. There is no secure link yet between prosecution and enforcement agencies. To increase results in this area, the new Special Prosecutor's Office requires more human and material resources.

In the field of *anti-money laundering*, the government adopted the national risk assessment for money laundering and terrorist financing, and an action plan for government bodies, in December 2015. The IT system of the financial intelligence unit is being upgraded. Both the administration for prevention of money laundering and terrorist financing and the central bank have continued to train and supervise reporting entities. In September 2015, the administration for prevention of money laundering and terrorism financing adopted guidelines

for assessing the risks of money laundering and terrorism financing for companies, legal persons, entrepreneurs and individuals engaged in an activity or business. Despite these improvements, no new cases were brought, which shows that gaps extend beyond the institutional and legislative framework.

While the legal and institutional framework to *fight trafficking in human beings* is in place overall and the national strategy against human trafficking is being implemented, the limited results in term of identifying victims, prosecuting the perpetrators and providing protection make this type of crime a persistent concern in the country. The lack of understanding of the international human rights standards and case-law in this area continues to affect the performance not only of the judiciary but of social workers in the government-funded shelter. A police unit specialised in smuggling and trafficking in human beings has been established; similar specialisation needs to be ensured in the Judiciary. In the last year, the police launched four investigations, supported by special investigative measures. None resulted in the charges for this crime. Cooperation with civil society in this area continues to take place exclusively at central level. Montenegro needs to increase state authorities' awareness on this form of crime.

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

## **Fight against terrorism**

### Institutional set-up and legal alignment

Montenegro's **legal framework** is largely aligned with the *acquis* and international instruments on anti-terrorism. In December 2015, Montenegro adopted a new strategy to combat violent extremism for 2016-2018, complementing the national strategy for preventing and combating terrorism, money laundering and the financing of terrorism. The strategy is a response to the threat of violence-motivated radicalisation, including the problem of foreign fighters. In April 2016, the government adopted an action plan for the strategy. Cooperation with Interpol has continued, on maintaining database integration especially for the fight against terrorism and preventing travel by foreign fighters across the border. An inter-ministerial group has been set up to monitor the situation and take action to prevent potential terrorist threats. In October 2016 Montenegro has signed the Additional Protocol to the Council of Europe's Convention on the Prevention of Terrorism.

The **main institutions** involved in combating terrorism are the Ministry of the Interior, the intelligence services, the Ministry of Justice, the Ministry of Foreign Affairs and the Ministry of Defence.

### Implementation and enforcement capacity

In November 2015, the National Terrorism Risk Assessment was completed with the support of EU and OSCE experts. It outlines the need for increasing the administrative capacity of staff, including IT capability and provision of accurate statistics, with a view to developing Montenegro's track record further. The number of completed investigations and prosecutions for money laundering remains low.

Since March 2015, the new Special Prosecutor's Office has had exclusive competence for money laundering and terrorism-related crimes. There are four deputy prosecutors in charge of anti-money laundering cases. The Office still lacks sufficient specialised experts on banking and financial issues.

Montenegro has been marginally affected by the phenomenon of foreign terrorist fighters and radicalisation. It has so far identified a number of nationals who are currently members or

followers of such groups. Some of these are reported to have died in Syria or are still active fighters.

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

Montenegro continued to implement the national drug strategy and action plan for 2013-2020, which resulted in greater operational capacity through training and procurement of specialised police equipment and supplies. The Forensics Centre has continued to detect psychoactive substances and worked on improving its capacity to detect cocaine. Cooperation with the European Monitoring Centre for Drugs and Drug Addiction continued, including through seminars on the reporting methodology for new drugs and on building the national drug observatory.

On enforcement, joint controls by police and customs, mainly in the port of Bar, led to the seizure of 33 kg of cocaine. Regional and international cooperation continued to be good, as illustrated by several joint police operations. There is still no solid track record of seizure and confiscation of the proceeds of drug-related crimes, neither on financial investigations related to this area, and further efforts are needed in this regard.

The lack of secure storage for seized drugs and precursors prior to destruction remains an issue of concern. An appropriate process for destroying precursors has yet to be set up.

### **Customs cooperation**

Capacity for implementing the Naples II convention has been enhanced. The customs administration has actively participated in the CEFTA risk management working group. Customs authorities participated in regional operations to prevent distribution and smuggling of counterfeit goods and piracy. Montenegro continued its cooperation with European and international partners in a number of joint operations aimed at combating money laundering and terrorism financing, and at detecting drugs and drug precursors, counterfeit goods, cigarettes etc. However, the customs administration faces significant challenges in combating the trade in illicit tobacco.

## **4.25. 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.*

There is a **good level of preparation** in this chapter and **some progress** was made in the past year. In the coming year, Montenegro should in particular:

- focus efforts on increasing participation in the EU's Horizon 2020 Programme;
- continue to streamline efforts to increase investment in research, in particular through stimulating investment by the private sector.

Montenegro participates in the **EU's Horizon 2020 Research and Innovation** programme (H2020) as an associated country and took part in the first meeting of the H2020 Joint Committee in September. Workshops, information days and regular 'Open Door Days' on specific H2020 topics were held. Successful participation, however, remains weak and should be addressed as a priority, including through focusing efforts on areas of strategic interest to the country.

Montenegro research teams participated in 26 COST (European Cooperation in Science and Technology) actions and three national projects were awarded to Montenegro for the 2016/17 cycle under the 2014-2020 Framework Programme for Cooperation with the International

Atomic Energy Agency. Participation in EUREKA remains limited. In March, Parliament ratified the contract on establishing the Western Balkans Research and Innovation Centre.

Although the 2016 budget for scientific research activities was increased, the latest official MONSTAT figures indicate total national spending on research and development (R&D) in 2014 at 0.36 % of GDP. Work to improve the quality of data for R&D and innovation statistics is ongoing. Also, the newly adopted strategy on innovative activity (2016-2020) includes more realistic targets for an increase in national and private expenditure by 2020 (0.6 % of GDP in overall national R&D spending and 0.3 % of GDP for private investment). The level of investment in research, particularly from the private sector, needs to be increased.

Construction of the ‘Technopolis’ innovation and entrepreneurship centre was completed and the selection of entrepreneur tenants is finalised; the centre was formally opened in September 2016. The capacity of the BIO-ICT Centre of Excellence was further increased through the *purchase of* scientific equipment. Under the Higher Education and Research for Innovation and Competitiveness (HERIC) project, a national excellence scholarship programme is being implemented for awarding PhD and postdoctoral studies abroad.

The Montenegrin Council for Scientific Research Activities adopted a national roadmap for the **European Research Area** in April 2016.

On **innovation union**, the law on innovation activities was adopted in June, governing the organisation, conditions and manner of financing innovation activities.

#### **4.26. Chapter 26: Education and culture**

*The EU supports cooperation in education and culture through funding programmes and through the open method of coordination. Member States must also prevent discrimination and facilitate the education of children of EU migrant workers.*

There is a **good level of preparation** in this chapter. **Some progress** was made in education with the start of the revision of curricula based on learning outcomes. In the coming year, Montenegro should in particular:

- step up efforts on curricular reform in primary and secondary education to teach basic and transversal skills and focus on learning outcomes;
- revise enrolment policies for vocational and higher education.

On **education and training**, the 2016-2020 strategy for early and pre-school education was adopted in November. Curricula for secondary schools were revised based on learning outcomes. The challenge now is to improve the capacity of existing and future teachers to implement the new curricula and to revise teacher training programmes. A Strategy and Action Plan for the development of higher education 2016-2020 were adopted in July, covering, inter alia, a sustainable model of financing, and the harmonisation of education output with labour market needs. Regarding the modernised programme for vocational education and training (VET), priority areas for teacher training for 2016/17 were set, and are being addressed. Rationalising entry from vocational to higher education requires continuous effort, and consideration should be given to reducing the enrolment rates in VET. The 2016-2020 Strategy for lifelong career orientation and its 2016 action plan were adopted in June.

Unemployment among young people with tertiary education decreased in 2015, but remains high at 26.3 %. The annual budget for education is 4.2 % of GDP. Participation rates for lifelong learning programmes and early school leavers remain around 3 % and 5.7 % respectively. The government's professional development training programme for 9-month graduate traineeships is now in its fourth year of implementation; a deeper evaluation of its moderate success rate (for continued employment) is required. Measures should be taken to

address the high dropout rate of Roma children at national level education. Increasing pre-school participation, especially from Roma and other vulnerable groups, would significantly improve their success and continued participation in later schooling. Participation in early childhood education and care is well below the EU target of 95 % by 2020. Efforts to provide adequate support services for children with special education needs should continue. Education remains a high risk sector for corruption, especially in higher education.

Montenegro continues to actively participate in the Erasmus+ programme.

Montenegro's first law on **youth** was adopted in June, and the government adopted the national Youth Strategy 2017-2021 in September 2016. The National Youth Office within the Ministry of Education needs to be strengthened and its role enhanced.

On **culture**, in March, the government adopted the 2016-2020 national programme for the development of culture and the 2016 action plan. Montenegro participates in the Creative Europe Programme (Culture and MEDIA sub-programmes).

#### **4.27. 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 is at **some level of preparation** in this area. **Good progress** was achieved in further aligning policies and legislation with the *acquis*. However, significant efforts are needed on implementation and enforcement, in particular in water, nature protection and waste management sectors. In the coming year, Montenegro should pay particular attention to:

- implement the national strategy for transposition, implementation and enforcement of the EU *acquis* on environment and climate change and its action plan;
- implement the national waste management strategy and the national waste management plans;
- ratify the Paris Agreement and start implementing its contribution to it, in line with the EU 2030 framework for climate and energy policies.

#### **Environment**

In the area of **horizontal legislation**, the new law on the environment was adopted in July 2016 as well as the national strategy for transposition, implementation and enforcement of the EU *acquis* on the environment and climate change and its 2016-2020 action plan. Administrative capacities at national and local level have to be considerably strengthened throughout all sectors, particularly in the field of environmental inspections. Legislative alignment with the *acquis* on environmental impact assessment and strategic environmental assessment is at an advanced stage. However, implementation needs to be considerably strengthened, especially for infrastructure development, thermal and hydropower plants and offshore hydrocarbons operations. Montenegro has taken some steps to improve cooperation with civil society, but considerable efforts are needed to achieve effective public participation and consultation in decision-making. In that perspective, a coalition of 15 civil society organisations was established in April 2016. On prevention and remediation of environmental damage, Montenegro has partially transposed the INSPIRE Directive and it aligned with the Environmental Liability Directive. On access to environmental information, the four Aarhus Centres functioned well.

On **air quality**, the level of legislative alignment with the *acquis* is relatively advanced. The national strategy for air quality and its 2013-2016 action plan are in place. In March 2016, the government adopted information, conclusions and an action plan on air pollution in Pljevlja. Resolute efforts are needed to implement the conclusions and the action plan. Air quality plans were adopted for Pljevlja, Nikšić and Podgorica municipalities, where the levels of pollutants exceed limit values. Montenegro is advanced regarding the alignment with the Directive on reduction in the sulphur content of certain liquid fuels.

The legal framework on **waste management** is partially aligned. In order to further align with the *acquis*, amendments to the law on waste management were adopted in 2015 and 2016. Considerable efforts are needed to ensure implementation of the national strategy for waste management until 2030 and the 2015-2020 national waste management plans. Special attention needs to be given to the implementation of local waste management plans, to waste separate collection and recycling as well as to the strengthening of financial and administrative capacities at local/municipal level. Implementation of the waste law must be strengthened, in particular in the area of illegal waste disposal and temporary disposal sites.

The level of alignment on **water quality** is limited. The national strategy and action plan on water protection have yet to be adopted. Preparatory work on river basin management plans is in its initial phase. The river management authorities are not yet operational. A system for monitoring water quantity and quality is needed. Identification of agglomerations and definition of sensitive areas is required, as laid down in the Urban Waste Water Treatment Directive.

In the field of **nature protection**, Montenegro is partially aligned with the *acquis*. The law on nature protection was adopted. The institutional framework for designating and managing future Natura 2000 sites needs to be streamlined and adequately resourced. Potential investments in hydropower need to ensure that nature protection obligations are met, especially for national protected areas and areas of high natural value that could potentially become protected Natura 2000 sites. There is a significant delay in establishing protection over the potential Natura 2000 site of Ulcinj Salina. Resolute efforts and urgent action are needed to ensure protection of this site.

As regards **industrial pollution and risk management**, alignment with the *acquis* is partial. Five integrated permits have been issued so far.

On **chemicals**, Montenegro is partially aligned with the *acquis* and a new law on chemicals to further align has still not been adopted. For the CLP and REACH regulations, implementation is partial and additional effort is required. In April 2016 the government adopted the report on the implementation of the 2015-2018 national strategy for the management of chemicals for 2015 which identifies the implementation measures between 2015 and 2018. Montenegro is a Party to the Rotterdam and the Stockholm Conventions but full implementation is still pending.

On **noise**, work on the preparation of strategic noise maps and action plans has not yet started.

In the area of **civil protection**, Montenegro has become a member of the EU Civil Protection Mechanism in April 2015. However, it has still not connected with the EU Civil Protection Mechanism's Common Emergency Communication and Information System. The strategy for disaster risk reduction is still to be adopted.

### **Climate change**

The level of alignment is limited. The national strategy in the field of climate change by 2030 was adopted in September 2015. Montenegro needs to ensure that the strategy is implemented

in a way that is consistent with the EU 2030 framework on climate and energy policies and well integrated into all relevant sectors. As for the UN Framework Convention on Climate Change (UNFCCC), Montenegro submitted its intended nationally defined contribution to the 2015 Paris Climate Agreement, committing itself to reducing greenhouse gases emissions by 30 % by 2030 against the baseline year of 1990. In April 2016, Montenegro signed the Paris Agreement in the area of climate change. The preparatory work for its ratification is ongoing. In January 2016, Montenegro submitted its first biennial update report on greenhouse gases to the UNFCCC. Regarding transparency of climate action, the EU Monitoring Mechanism Regulation has been partially implemented; Montenegro should strongly pursue its full implementation. On emissions trading, some very limited provisions of the EU ETS Directive have been transposed. Further efforts are required to align with the climate *acquis* including the Fuel Quality Directive, EU legislation on ozone depleting substances, fluorinated gases, the Carbon Capture and Storage Directive and other relevant legislation. Despite internal reorganisation of the line ministry, administrative capacity remains quite weak and poorly equipped to deal with the emerging challenges.

#### **4.28. Chapter 28: Consumer and health protection**

*EU rules protect consumers 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 in this area. However, substantial further alignment of legislation is needed in order to meet EU standards, specifically on quality and safety in both consumer protection and public health.

In the coming year, Montenegro should in particular:

- improve and ensure the cost-effectiveness of health promotion and prevention and achieve sustainable improvement in patient safety and healthcare quality, including in inter-sectoral collaboration - notably in the field of communicable diseases;
- undertake substantial further alignment and implementation of legislation to meet EU standards on consumer protection and improve public awareness.

In September 2015 the government adopted the July 2015-June 2018 national **consumer protection** programme and its July 2015-June 2016 action plan. Higher public awareness of the banking ombudsman and the possibility to seek out-of-court settlements are needed, as is additional support for civil society organisations.

The number of inspections (safety and non-safety related) performed by the Administration for Inspection Affairs increased again, as did the number of irregularities found, with 275 types of dangerous products identified.

On **safety-related issues**, further amendments are necessary to the law on general product safety and the law on consumer protection to ensure full alignment with the *acquis*. Administrative and enforcement capacity needs improving to ensure correct implementation.

On **non-safety related issues**, more work is needed on raising consumer awareness and improving access to information on consumers' rights.

With regard to **public health**, the 2015-2020 master plan for health development and the law on healthcare, which is partly aligned with the EU *acquis*, were adopted in late 2015. Fiscal austerity and sustainability continued to detract from the work of public health bodies, and programmes and interventions and were further impacted by overuse of medicines.

Amendments to the maximum sale prices criteria for medicines were adopted regarding the alignment of prices, once the maximum price is determined. The Ministry of Health issued a guidebook for regular analyses in monitoring the prescription of drugs.

The **tobacco control** law was amended to ensure compliance with the EU *acquis* on health warning labels on packaging. However, the law on the use of tobacco in public places is still not aligned with EU recommendations.

The 2016 programme for mandatory immunisation against certain **communicable diseases** was adopted. The European Regional Verification Commission for measles and rubella elimination found that endemic transmission of those diseases has been interrupted in Montenegro. The country still does not have a formal surveillance system for antimicrobial resistance. Efforts were made to implement the National HIV Strategic Response but sustainable funding is still not ensured.

On **drug abuse prevention**, efforts are needed to develop and expand prevention, rehabilitation and social reintegration programmes for addicts. In May the Commission for drugs was officially created. It is composed of four psychiatrists, one representative of CSOs and two representatives from the Ministry of Health.

With regard to **non-communicable diseases**, health promotion remains underutilised. The 2016-2017 action plan to implement the strategy for the prevention and control of chronic non-communicable diseases was adopted in March.

A national **cancer screening** programme on early detection and treatment of breast cancer was launched. The WHO European Childhood Obesity Surveillance Initiative was carried out in May and June, though no official results are available yet.

On **blood, tissues, cells and organs**, the law on removal and transplantation of human tissues and cells for therapeutic purpose was adopted in June, aligned with the EU *acquis*. Training sessions were held for healthcare workers in the Blood Transfusion Institute.

With regard to **patients' rights in cross-border healthcare**, the law on health insurance was adopted designed to ensure further alignment with the EU *acquis*.

On **health inequalities**, access to health protection must be improved for people with disabilities, people living with HIV, children and adults who use drugs, prisoners, women in prostitution, LGBTI people, internally displaced persons and Roma.

#### **4.29. 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. **Good progress** was made on customs legislation. In the coming year, Montenegro should in particular:

- further advance preparations for accession to the Convention on a common transit procedure;
- implement the necessary capacity-building measures, in particular in the IT department.

On **customs legislation**, amendments to the law on the Customs Service entered into force in January, making a clearer delineation of responsibilities and strengthening integrity and internal controls. The customs tariff was updated in line with the 2016 version of the EU's combined nomenclature.

Amendments to the Decree on implementation of the Customs Code entered into force in February. These further align non-preferential rules of origin and classification of goods, summary declaration, simplified procedures and management of tariff quotas with the Union Customs Code.

A revised law on free zones was adopted in July. The government also adopted amendments to the Decree on conditions for representation before the customs authorities as well as a Decree on customs enforcement of intellectual property rights, aligned with Regulation (EU) No 608/2013.

Areas which require further harmonisation include transit, drug precursors and security aspects. Preparations for implementing the New Computerised Transit System advanced and a national plan was prepared.

As regards **administrative and operational capacity**, a new 2016-2018 customs business strategy was adopted in March, which incorporates updates to the IT strategy. A human resources management strategy for 2016-2018 was adopted and a new rulebook on internal organisation and systematisation prepared, envisaging the establishment of a separate transit group and a customer helpdesk. Appropriate staffing levels of the customs administration, in particular in the IT unit, need to be ensured.

Risk management has been further strengthened with the adoption of a strategic framework for risk management and a risk register. The authorised economic operators programme is operational, but so far no economic operators have requested a licence. Preparations for the accreditation of the customs laboratory advanced. In 2015, the customs administration took over the responsibility for domestic excise duties, which resulted in a rather substantial increase of the collected amounts. The customs administration faces significant challenges in controlling the illicit tobacco trade, in particular as regards the transit through the Port of Bar free zone. It should step up efforts in this area, including strengthening international cooperation.

#### **4.30. 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**. **Good progress** was made: Montenegro adopted an action plan to bring its international agreements and legislation into line with the *acquis*, and also ratified the WTO Trade Facilitation Agreement. Preparations on development and humanitarian aid are at an early stage.

In the coming year, Montenegro should, in particular:

- complete the alignment of its legislation with the *acquis* on export controls of dual-use goods;
- follow up on activities laid down in the action plan on legislative alignment, bringing international agreements into line with the *acquis*, and follow up on the enhancement of administrative and control capacity.

On **common commercial policy**, Montenegro ratified the WTO Trade Facilitation Agreement in March and deposited its ratification instrument in May. After joining the Information Technology Agreement (ITA 2) negotiations, Montenegro's ITA 2 implementation scheme was ratified by the WTO Secretariat in November 2015. Montenegro applied for membership in the Wassenaar Arrangement in September 2015. Alignment with the *acquis* on export

controls of dual-use goods needs to be completed. Administrative and control capacity should be further improved.

Regarding **bilateral agreements with third countries**, Montenegro's negotiations with Russia on the protocol to the free trade agreement and related negotiations with Belarus and Kazakhstan remain stalled after Montenegro aligned with the EU sanctions in the context of Russia's illegal annexation of Crimea and events in eastern Ukraine. During the reporting period, Montenegro signed an economic cooperation agreement with Albania, an Agreement on economic and trade cooperation with the Republic of Argentina, and a Protocol on cooperation with the Czech Republic in the area of energy and infrastructure.

There were no developments on the negotiation of bilateral investment treaties. Montenegro continues to play an active role in CEFTA and is chairing it in 2016.

Montenegro needs to further improve its institutional and financial capacity on **development policy and humanitarian aid**. Humanitarian contributions are still decided on a case-by-case basis in the absence of a legislative framework.

#### **4.31. 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 legislation, as well as a strategy for the non-proliferation of weapons of mass destruction. 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. (For more information on developments in bilateral relations with other enlargement countries and EU Member States, see *Political criteria — Regional issues and international obligations*.)

On the **common foreign and security policy**, Montenegro aligned, when invited, with all relevant EU declarations and Council decisions (100 % alignment). (For more information on developments concerning the International Criminal Court, see *Political criteria — Regional issues and international obligations*.)

Montenegro continued to participate in some, but not all, international export control arrangements and instruments on **non-proliferation**.

The law on foreign trade in arms and military equipment was adopted in June. March saw the adoption of the law on ratification of the amendments to the Convention on the physical protection of nuclear material, the law on ratification of the protocol on explosive remnants of war, and the Convention on prohibitions or restrictions on the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects.

In May, the government adopted the 2016-2020 national plan for protection against chemical, biological, radiological and nuclear threats and risks. Montenegro's first strategy for the non-proliferation of weapons of mass destruction was adopted in September 2016. Montenegro continued to comply with international commitments on small arms and light weapons, including the aims of the EU strategy.

Regarding **cooperation with international organisations**, in December NATO invited Montenegro to become a member of the alliance. The Protocol on the Accession of

Montenegro to NATO was signed in May and Montenegro participated in the Warsaw Summit in July as a future member of the Alliance.

On **security measures**, the EU-Montenegro security agreement continued to be implemented smoothly. Montenegro should continue to align with the EU security rules.

Montenegro continued to participate in **civil and military crisis management** missions under the **common foreign and defence policy** (CSDP), in particular EU NAVFOR Atalanta and EUTM Mali. Montenegro took part in UN operations, in particular UNFICYP. Parliament adopted a decision on the deployment of Montenegro armed forces to the United Nations Mission for the Referendum in Western Sahara (MINURSO). Montenegro also participated in the International Security Assistance Force (ISAF) mission in Afghanistan. Since the expiration of ISAF's mandate in 2014, officers deployed by Montenegro continued to serve in the NATO-led Resolute Support mission. A proposal for Montenegro to contribute to KFOR forces in Kosovo has also been launched.

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

*Based on international standards, the EU promotes the reform of national governance systems to enhance managerial accountability and sound financial management of income and expenditure. 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. **Good progress** was achieved in the past year in several areas, including external audit and in the development of procedures for monitoring and assessing the quality of internal control reforms. However the principle of managerial accountability is still not fully embedded in the administrative culture and decision-making and budgetary powers are rarely delegated to operational managers

In the coming year, Montenegro should in particular:

- ensure an agreement at government level on the definition of managerial accountability, including how it applies to resource allocation, reporting on the achievement of objectives, and financial management, and start implementation throughout the public administration;
- continue to increase the number of auditors in the State Audit Institution, up to the intended level;
- significantly strengthen the coordination capacity of the National Anti-fraud Coordination Service and continue to ensure the implementation of the national anti-fraud strategy.

##### Public internal financial control

Montenegro is implementing its 2013-2017 PIFC **strategy and action plan** and a 2016-2020 public finance management reform programme. Internal control, particularly managerial accountability and the delegation of responsibility is also, addressed in the new 2016-20 PAR strategy. The Central Harmonisation Unit continues to report annually on implementation of the strategy to the government, which then adopts conclusions. Systematic implementation of the government's conclusions following the annual PIFC review is improving: over 50 % of the total conclusions in the 2014 report have been fully implemented compared with 13 % of those in the 2013 report.

The **Central Harmonisation Unit** (CHU) is responsible for methodological guidance, training and monitoring of implementation of the PIFC legislation. It is increasingly focusing on guidance and monitoring, particularly in line ministries and local government units, where it has identified the most serious challenges. More attention is also being given to state-owned

enterprises. The CHU has adopted a training programme on public-sector internal financial controls, in cooperation with the Human Resources Management Authority.

The PIFC law regulates **financial management and control** (FMC) in line with the internal control framework of the Committee of Sponsoring Organisations and the guidelines of the International Organisation of Supreme Audit Institutions. Managers responsible for FMC are high-level officials, but they do not appear to be systematically involved in implementation. Further efforts are needed to finalise FMC action plans and rulebooks and to implement risk management procedures. A mapping of the internal control processes by the CHU is ongoing.

The law on budget and fiscal responsibility provides for a **centralised financial inspection** function to act on reports or suspicions of fraud and corruption in financial management, but the relevant implementing legislation still has to be adopted.

**Internal audit** is governed by the PIFC law, in line with international standards. More budgetary funds were allocated to internal audit and most public-sector entities have established an internal audit unit. The availability of qualified staff is gradually improving. Out of 28 internal audit units, 22 adopted strategic audit plans and 19 adopted annual plans. Audit engagements include activities financed by EU funds.

#### External audit

Montenegro's **constitutional and legal framework** ensures the independence of the State Audit Institution (SAI), in line with the standards of the International Organisation of Supreme Audit Institutions. The president and four members of the SAI's senate, nominated by Parliament, have immunity by virtue of their office, cannot be members of a political party and are not allowed to have any other professional activity.

The SAI's **institutional capacity** continues to be an issue of concern. As in 2015, the SAI has around 40 auditors, which is half the number of auditors the institution is intended to have. This number is deemed insufficient to fulfil the SAI's responsibilities. An exam to become a state auditor, held in early 2016, is expected to partially address this issue. The SAI is implementing its 2012-2017 strategic development plan. It is drafting guidelines on auditing the state budget final statement of accounts and on how to assess the application of fiscal responsibility criteria. It has a structured training policy, including a certification programme: 70% of its auditors are certified. The SAI also has its own internal audit department with one internal auditor.

On **quality of audit work**, the SAI has adopted methodologies for financial and regularity audits and for performance audits as well as a code of ethics, in line with the ISSAI (international standards of the Supreme Audit Institutions) and the guidelines on audit quality control. The SAI assesses the internal control systems of audited bodies and provides recommendations. Its capacity to conduct performance audits is improving and it is gradually increasing the number of performance audits that it undertakes. Of the four performance audits planned for 2015, three were performed in 2015 and the forth was finished in 2016. Four other performance audits are foreseen to take place in 2016

On the **impact of audit work**, SAI reports are public and its cooperation with media and NGOs continues to improve. Implementation of SAI recommendations needs to further improve, though the government is implementing a formal mechanism to follow up on external audit recommendations. Regarding the lack of transparency and absence of time limits on addressing weaknesses identified in the 2015 report, SAI provides information on implementation in the final statement of accounts of the state budget. Entities must submit a report on the implementation of audit recommendations in a specified timeframe, usually six months. SAI checks these reports and can perform a follow-up audit if the audited entity did

not implement any of the recommendations. Parliament's capacity to ensure effective scrutiny over the whole budgetary process, including SAI audit reports and recommendations, still needs to be improved.

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

**Acquis alignment** is high in this area, and Montenegro's national anti-fraud coordination service (AFCOS) has been functioning since 2013. However, the AFCOS' capacity to coordinate the institutions in the AFCOS network still needs to be significantly strengthened. A national anti-fraud strategy is being implemented. **Cooperation with the European Commission** is ongoing and Montenegro has access to the Irregularity Management System since April 2016. Montenegro reports regularly to the Commission on irregularities and suspected fraud cases. A solid track record on investigations and reporting still needs to be established.

#### Protection of the euro against counterfeiting

There is a high level of **acquis alignment** in this area, and in October 2015 Parliament enacted the law on ratification of the International Convention for the Suppression of Counterfeiting Currency.

**Technical analysis** of suspicious euro banknotes and coins is performed by the Central Bank. Training has been systematically organised for cash handlers, who are obliged to check the authenticity and withdraw all suspicious money from circulation.

The Central Bank implements the **cooperation agreements** with the European Commission and the European Central Bank. Montenegro also participates in the Pericles 2020 programme and the regional Balkan Network for Euro Protection initiative.

### **4.33. Chapter 33: Financial and budgetary provisions**

*Rules for funding the EU budget provide for contributions based mainly on the gross national income of each Member State as well as from value added tax and customs duties.*

Preparations in this area are at an **early stage**. There was **some progress** thanks to the adoption of an action plan, including indicative timetables to complete the preparation regarding own resources, and the concept of traditional own resources accounting is now well understood. A solid institutional set-up for the own resources system, coordination structures, administrative capacity and implementing rules will need to be developed in due course.

Montenegro's rules of administration for the own resources system, including **traditional own resources**, the **value added tax-based resource** and the **gross national income-based resource** (GNI), are not yet aligned with the *acquis*. The country will need to make considerable efforts to ensure the exhaustiveness of its national accounts and GNI calculations by taking into account also the informal economy. The concept of traditional own resources accounting is now well understood, as demonstrated in the simulation exercise on the A and B accounts that took place in early 2016.

Montenegro will need to take sound measures for combating fraud in VAT and customs duties in order to ensure appropriate contribution to the EU own resources system upon membership. (*For developments in the underlying policy areas, see chapters 16 — Taxation; 18 — Statistics; 29 — Customs, 32 — Financial control*).

In March 2016, the government adopted its 2016-2020 action plan for the implementation of the EU's own resources system. However the annex to the action plan should be modified to

clearly indicate the tasks and responsibilities of the various institutions and services involved in the own resources system.

On **administrative infrastructure**, sufficient staff need to be allocated to ensure the administrative preparations for own resources, and the coordination capacity of the coordination department should be increased in order to ensure the smooth cooperation between all the participants in the own resources system, and inter-institutional cooperation.

Montenegro will need to have a fully operational coordination structure, administrative capacity and implementing rules to ensure that it will be able, from accession, to correctly calculate, forecast, account for, collect, pay, control and report to the EU on own resources in line with the *acquis*. It is therefore necessary to continue the administrative preparations regarding own resources.

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

Within the framework of the **accession negotiations**, by September 2016, 24 chapters, including chapters 23 and 24 on the rule of law, had been opened, two of which, i.e. science and research, and education and culture, 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 2016 and the Stabilisation and Association Committee in December 2015. Various subcommittee meetings have been held since November 2015, plus two meetings of the Stabilisation and Association Parliamentary Committee, in December 2015 and May 2015.

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 25 May 2016, 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 Frontex. 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.

The EU provided financial assistance to Montenegro under the Instrument for Pre-accession Assistance (IPA) for the period 2007-2013, with a total allocation to Montenegro of EUR 235.7 million. The implementation of the IPA Components I and II continues to be managed by the EU Delegation in Podgorica, while management for components III and IV was conferred to Montenegro.

Montenegro benefits from pre-accession assistance with an indicative allocation of € 270.5 million for the period 2014-2020, based the priorities set out in the Indicative Strategy Paper. The 2015 action programme for Montenegro provides EUR 25.14 million for reforms in the area of integrated border management and support for Roma and other vulnerable groups, and to address key requirements of the accession negotiations. In addition, a multi-annual action programme 2015-2017, totalling EUR 15.3 million, will tackle active labour market reforms, improvements in the education system and support to social inclusion policies.

Montenegro continues to benefit from support under the IPA multi-country and regional programmes. It continues to participate in five 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 participate 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).

## ANNEX II – STATISTICAL ANNEX

### STATISTICAL DATA (as of 5.10.2016) Montenegro

Basic data	Note	2003	2011	2012	2013	2014	2015
Population (thousand)		611	620b	620	621	622	622
Total area of the country (km <sup>2</sup> )		13 812	13 812	13 812	13 812	13 812	13 812
National accounts	Note	2003	2011	2012	2013	2014	2015
Gross domestic product (GDP) (million euro)		:	3 264.8	3 181.5	3 362.5	3 457.9	3 624.7
GDP (euro per capita)		:	5 300	5 100	5 400	5 600	5 800
GDP (in Purchasing Power Standards (PPS) per capita)		:	10 700	10 400	10 800	11 200	11 800
GDP (in Purchasing Power Standards (PPS) per capita), relative to the EU average (EU-28 = 100)		:	41	39	40	41	41
Real GDP growth rate: change on previous year of GDP volume (%)		:	:	-2.7	3.5	1.8	3.4
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (constant prices) 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 (2005 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		:	9.6	8.9	9.8	10.0	9.8
Industry (%)		:	12.1	12.2	14.3	13.5	12.9
Construction (%)		:	5.9	5.5	4.5	4.2	4.6
Services (%)		:	72.4	73.4	71.4	72.3	72.7
Final consumption expenditure, as a share of GDP (%)		:	102.6	103.8	100.5	99.6	98.6
Gross fixed capital formation, as a share of GDP (%)		:	19.5	19.8	20.2	19.0	20.3
Changes in inventories, as a share of GDP (%)		:	-0.2	0.8	-0.6	1.2	-0.3
Exports of goods and services, relative to GDP (%)		:	42.3	43.7	41.3	40.1	42.5
Imports of goods and services, relative to GDP (%)		:	64.3	68.1	61.4	60.0	61.1
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:
Business	Note	2003	2011	2012	2013	2014	2015
Industrial production volume index (2010 = 100)		113.5	89.8	83.5	92.3	81.8	88.3
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 (%)		:	:	:	:	:	:
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	:	:	:	:	:
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)		:	:	:	:	:	:
Total value added (in the non-financial business economy) (EUR million)		:	:	1 133	1 271	1 308	:
Inflation rate and house prices	Note	2003	2011	2012	2013	2014	2015
Consumer price index (CPI), change relative to the previous year (%)		7.8	3.5	4.1	2.2	-0.7	1.5
**Annual change in the deflated house price index (2010 = 100)		:	:	:	:	:	:

<b>Balance of payments</b>	Note	2003	2011	2012	2013	2014	2015
Balance of payments: current account total (million euro)	1)	-102	-573	-588	-487	-526	-483
Balance of payments current account: trade balance (million euro)	1)	-359	-1 306	-1 389	-1 329	-1 376	-1 464
Balance of payments current account: net services (million euro)	1)	112	589	612	653	690	789
Balance of payments current account: net income (million euro)	1)	88	26	54	66	46	93
Balance of payments current account: net current transfers (million euro)	1)	58	117	135	123	114	99
of which government transfers (million euro)	1)	:	6	18	22	24	4
**3 year backward moving average of the current account balance relative to GDP (%)	1)	:	-22.7	-19.6	-16.8	-16.1	-14.4
**Five year change in share of world exports of goods and services (%)		:	:	:	:	:	:
Net inward foreign direct investment (FDI) (million euro)	1)	38.7	389.1	461.6	323.9	353.9	619.3
Foreign direct investment (FDI) abroad (million euro)	1)	5.1	12.3	20.8	13.0	20.7	11.1
of which FDI of the reporting economy in the EU-28 countries (million euro)	1)	0.4	-9.4	20.6	11.1	14.7	8.8
Foreign direct investment (FDI) in the reporting economy (million euro)	1)	43.8	401.4	482.4	336.9	374.6	630.3
of which FDI of the EU-28 countries in the reporting economy (million euro)	1)	32.0	204.9	219.7	79.8	118.2	411.8
**Net international investment position, relative to GDP (%)		:	:	:	:	:	:
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)	1)	:	:	:	:	1.9	:

<b>Public finance</b>	Note	2003	2011	2012	2013	2014	2015
***General government deficit / surplus, relative to GDP (%)		-2.4u	-5.2	-5.9	-2.3	-3.1	-7.7
***General government gross debt relative to GDP (%)		47.0	46.0	50.9	58.0	56.7	63.3
Total government revenues, as a percentage of GDP (%)		:	:	:	:	39.5	36.9
Total government expenditure, as a percentage of GDP (%)		:	:	:	:	42.5	45.0

<b>Financial indicators</b>	Note	2003	2011	2012	2013	2014	2015
Gross foreign debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:
Gross foreign debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	2)	285	:	:	:	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	3)	403	:	:	:	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)	4)	494	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)	5)	199	1 945	1 842	1 985	1 929	1 956
**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 (%)	6)	:	9.73	9.47	9.36	9.22	8.53
Deposit interest rate (one year), per annum (%)	6)	:	3.02	3.23	2.54	1.86	1.23
Euro exchange rates: average of period (1 euro = ... national currency)		1	1	1	1	1	1
Trade-weighted effective exchange rate index (2010 = 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)		50	303	348	424	545	674
<b>External trade in goods</b>	Note	2003	2011	2012	2013	2014	2015
Value of imports: all goods, all partners (million euro)	:	1 823	1 821	1 773	1 784	1 842	
Value of exports: all goods, all partners (million euro)	:	454	367	376	333	317	
Trade balance: all goods, all partners (million euro)	:	-1 369	-1 454	-1 398	-1 451	-1 524	
Terms of trade (export price index / import price index * 100) (number)	:	102	96	102	101	100	
Share of exports to EU-28 countries in value of total exports (%)	:	60.2	51.5	41.5	35.8	35.7	
Share of imports from EU-28 countries in value of total imports (%)	:	44.3	44.5	44.2	45.8	41.3	
<b>Demography</b>	Note	2003	2011	2012	2013	2014	2015
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		4.3	2.2b	2.5	2.5	2.4	1.7
Infant mortality rate deaths of children under one year of age (per thousand live births)		11.0	4.4	4.4	4.4	4.9	:
Life expectancy at birth: male (years)	:	73.3	74.2	74.1	74.1	74.1	:
Life expectancy at birth: female (years)	:	78.8	78.3	79.0	78.9	78.9	:
<b>Labour market</b>	Note	2003	2011	2012	2013	2014	2015
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)	:	:	:	65.1	67.6	68.5	
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)	:	:	:	52.6	55.6	56.7	
Male employment rate for persons aged 20–64 (%)	:	:	:	57.8	61.4	61.9	
Female employment rate for persons aged 20–64 (%)	:	:	:	47.5	49.4	51.5	
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)	:	:	:	38.7	38.7	40.0	
Employment by main sectors							
Agriculture, forestry and fisheries (%)	:	5.6	5.7	4.5	5.7	7.7	
Industry (%)	:	13.0	11.7	11.9	11.1	10.8	
Construction (%)	:	6.0	5.7	5.9	6.5	6.6	
Services (%)	:	75.5	76.9	77.7	76.7	74.8	
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	7)	:	:	:	32.8	32.4	
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	8)	:	:	:	48.2	46.8	
Unemployment rate: proportion of the labour force that is unemployed (%)		22.7	19.7b	19.7	19.5	18.0	17.5
Male unemployment rate (%)	:	19.5	19.3	20.1	17.8	17.7	
Female unemployment rate (%)	:	20.0	20.3	18.8	18.2	17.3	
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)	:	:	43.7	41.6	35.8	37.6	
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)	:	15.7	15.6	16.0	14.0	13.6	
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED 0–2) (%)	:	:	:	:	32.8	28.7	
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED 5 & 6) (%)	:	:	:	:	9.0	9.4	
<b>Social cohesion</b>	Note	2003	2011	2012	2013	2014	2015
Average nominal monthly wages and salaries (national currency)		149	479	484	487	479	:
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2000 = 100)		109.7	226.1	221.6	214.3	206.1	:
GINI coefficient	9)	:	25.9	26.5	26.2	:	:
Poverty gap (%)	9)	:	2.0	2.8	2.4	:	:

*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 (%)		:	6.7	6.6	5.1	5.1	5.7
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<b>Standard of living</b>	Note	2003	2011	2012	2013	2014	2015
Number of passenger cars relative to population size (number per thousand population)		174.2	277.4	280.3	288.3	280.1	282.8
Number of mobile phone subscriptions relative to population size (number per thousand population)		674	1 875b	1 595	1 605	1 630	1 620
Mobile broadband penetration (per 100 inhabitants)		:	10	10	13	10	9
Fixed broadband penetration (per 100 inhabitants)		:	13	14	15	17	18

<b>Infrastructure</b>	Note	2003	2011	2012	2013	2014	2015
Density of railway network (lines in operation per thousand km <sup>2</sup> )		18.1	18.1	18.1	18.1	18.1	18.1
Length of motorways (kilometres)		0	0	0	0	0	0

<b>Innovation and research</b>	Note	2003	2011	2012	2013	2014	2015
Public expenditure on education relative to GDP (%)		:	:	:	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)		0.80	0.32	:	0.38	0.36	:
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	:	:	:	:
Percentage of households who have internet access at home (%)		:	51.4e	55.0e	55.8e	63.6e	67.5e

<b>Environment</b>	Note	2003	2011	2012	2013	2014	2015
*Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)		95.0	76.7	68.2	60.7	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2010 constant prices)		:	351.9	342.4	319.0	294.6	:
Electricity generated from renewable sources relative to gross electricity consumption (%)		:	:	55.5	63.3	54.1	:
Road share of inland freight transport (based on tonne-km) (%)		56.1	43.1	51.0	100.0	100.0	100.0

<b>Energy</b>	Note	2003	2011	2012	2013	2014	2015
Primary production of all energy products (thousand TOE)		:	700	684	761	687	:
Primary production of crude oil (thousand TOE)		:	0	0	0	0	:
Primary production of hard coal and lignite (thousand TOE)		:	434	393	372	379	:
Primary production of natural gas (thousand TOE)		:	0	0	0	0	:
Net imports of all energy products (thousand TOE)		:	443	373	239	288	:
Gross inland energy consumption (thousand TOE)		:	1 143	1 057	1 000	975	:
Electricity generation (thousand GWh)		2.7	2.7	2.8	3.9	3.2	:

<b>Agriculture</b>	Note	2003	2011	2012	2013	2014	2015
Agricultural production volume index of goods and services (at producer prices) (previous year = 100)		101	:	:	:	:	:
Utilised agricultural area (thousand hectares)	11)	518p	223b	223	223	230	231
Livestock numbers: live bovine animals (thousand heads, end of period)	12)	175e	87	85	89	94	93p
Livestock numbers: live swine (thousand heads, end of period)	12)	24e	21	18	21	22	25p
Livestock numbers: live sheep and live goats (thousand heads, end of period)	12)	252e	232	230	220	237	224p
Production and utilisation of milk on the farm (total whole milk) (thousand tonnes)	13)	203e	202	163	186	192	183p
Harvested crop production: cereals (including rice) (thousand tonnes)	11)	4p	6b	5	8	8	7
Harvested crop production: sugar beet (thousand tonnes)	11)	:	0	0	0	0	0
Harvested crop production: vegetables (thousand tonnes)	11)	:	36b	34	42	44	51

: = not available

b = break in series

e = estimate

p = provisional

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) 2013–2015: based on balance of payments manual edition 6 (BPM6).
- 2) 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.
- 3) 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.
- 4) 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.
- 5) 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). 2002: excludes other claims.
- 6) Weighted average effective interest rate, outstanding amounts.
- 7) Data of NGOs are excluded.
- 8) Comprises data of private companies or enterprises, entrepreneurs and private households.
- 9) World Bank methodology, by consumption approach, source: MONSTAT (release Poverty Analysis of Montenegro), link <http://www.monstat.org/eng/page.php?id=340&pageid=73>.
- 10) Based on GDP at 2010 constant prices.
- 11) 2003: based on the reports of agricultural organisations (agricultural enterprises and cooperatives) engaged in crop production and estimates for private agricultural holdings.
- 12) Including livestock held by enterprises, cooperatives and households.
- 13) In million litres. Net quantity, from enterprises, cooperatives and households.