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**COMMISSION STAFF WORKING DOCUMENT**

**Montenegro 2018 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**

**2018 Communication on EU Enlargement Policy**

{COM(2018) 450 final}

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## 1. INTRODUCTION

### 1.1. Context

Accession negotiations with Montenegro were opened in June 2012. To date 30 negotiating chapters have been opened, of which 3 have been provisionally closed. In June 2017 Montenegro became a member of NATO. Montenegro continued to broadly implement the Stabilisation and Association Agreement and the meetings of the joint bodies under the agreement took place on regular intervals.

Six negotiating chapters were opened during the reporting period and one provisionally closed. Holding the accession conferences was made possible also due to the progress made in the area of the rule of law, as per the requirements of the Negotiating Framework. Progress towards meeting the interim benchmarks set in the rule of law chapters will be key for further progress in the accession negotiations.

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

Concerning the **political criteria**, the reporting period has been marked by the low level of trust towards the electoral framework and the prolonged parliamentary boycott by the entire opposition since the October 2016 parliamentary elections. Returning the political debate to the Parliament is the responsibility of all political actors. Parts of the opposition returned to the Parliament in December 2017, but this partial and selective ending of the boycott is yet to result in improved parliamentary dialogue and scrutiny. The political scene remains fragmented, polarised and marked by lack of political dialogue, notably in the democratic institutions.

The parliamentary legislative capacity and the oversight of the executive needs to be further enhanced. The parliament still addresses the State Audit Institution's audit findings in a limited manner, and there is no discussion or reporting on implementation of major policies and legislation. In December 2017, the Parliament adopted without proper public consultation a set of laws which only partially address the recommendations of the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR). A comprehensive electoral reform should be considered. There were 8 local elections in the reporting period. Local elections do not take place on the same day nationwide, but on a rolling bases; thus a prolonged and highly personalised election mood characterises the political landscape. Due to the electoral cycle, election observation is difficult, particularly for international observers, leaving ample room for claims of irregularities that cannot be independently evaluated. There were no new developments in the political and judicial follow-up of the alleged misuse of public funds for party political purposes in 2012 (the 'audio recordings affair').

As regards governance, there is a need to strengthen transparency, stakeholders' participation, and the government's capacity to implement reforms. Coherence of the policy-making system should be ensured through co-ordinated policy development. Mechanisms for government's consultation of civil society organisations are in place, but they need clear rules, and genuine involvement on both sides.

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<sup>1</sup> This report covers the period from October 2016 to February 2018. 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.

Montenegro is moderately prepared with the reform of its **public administration**. Good progress has been made, notably through the adoption of new laws on civil servants and state employees and on local self-government aimed at implementing merit-based recruitment across the public service. Strong political will is still needed to effectively address the de-politicisation of the public service and the optimisation of the state administration, as well as to ensure efficient implementation and financial sustainability of reforms.

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

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

In the **fight against organised crime**, there is an initial track record of prosecutions in the fight against smuggling of migrants and against drug trafficking. However, further results are needed to produce a convincing track record, in particular in the fight against money laundering and trafficking in human beings.

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

Montenegro has achieved some level of preparation on **freedom of expression**, but no progress was made in the reporting period. There have been no notable developments regarding investigations into old cases of violence against journalists. Recent political interference in the national public broadcaster Council and the Agency for Electronic Media are a matter of serious concern. The media scene remains highly polarised and challenges in understanding the role of free media persists. The number of defamation cases remains high, also due to weak self-regulatory mechanisms.

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

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<sup>2</sup> All these groups are considered under the wider "Roma" umbrella term under the EU Framework for National Roma Integration Strategies.

As regards the **economic criteria**, Montenegro has made some progress and is moderately prepared in developing a functioning market economy. Macroeconomic and fiscal stability were strengthened but further efforts are required to address persistent challenges, especially the high public debt burden. The economy has been growing uninterruptedly since 2013 amidst low or moderate inflation. The financial sector has improved its solvency and liquidity. However, the export base needs to improve in scope and in quality to reduce the trade deficit. Rule of law weaknesses, including unfair competition from the informal economy, negatively impact on the business environment. The labour market faces structural challenges, reflected in low participation and high unemployment rates.

Montenegro has made some progress and is moderately prepared in terms of capacity to cope with competitive pressure and market forces within the Union. The construction of key infrastructure in a number of areas as well as developing human capital set the basis for improved competitiveness. Education reform is ongoing, but more efforts are needed to address the skills mismatch. SMEs remain confronted with numerous challenges, such as access to finance or regulatory complexity. Further efforts are still required to improve the overall export performance of local companies.

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

Although Montenegro so far remained outside the main Western Balkans **migration** route to the EU, it witnessed an increase in the number of migrants/asylum seekers entering its territory and must therefore strengthen its capacity to cope with sudden increases in migration-related pressure. Montenegro made further progress in particular on the migration-related legal framework. While Montenegro's capacity to handle asylum requests has been sufficient so far, it might now be challenged by: (i) the growing number of asylum seekers and the extended length of their stays, sometimes due to lengthy appeal procedures; and (ii) the introduction of more demanding asylum procedures, aligned with the EU standards. In this context, Montenegro needs to put in place a return mechanism for irregular migrants, which is in line with the EU *acquis*, as well as to align its visa policy progressively with the EU's. Montenegro should open additional reception facilities that meet the required standards and improve management of all facilities. Further to the adoption of the Schengen action plan in February 2017, Montenegro continued to align its legislation with the EU *acquis* on visas.

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

### **2.1. Functioning of democratic institutions and Public Administration Reform**

#### **2.1.1. Democracy**

The reporting period was marked by prolonged parliamentary boycott by the entire opposition following the October 2016 parliamentary elections. Returning the political debate to the Parliament is the responsibility of all political actors. Only in December 2017, parts of the opposition returned to the Parliament. The partial and selective ending of the boycott is yet to result in improved parliamentary scrutiny. The Presidential Elections were held on 15 April 2018.

#### **Elections**

The overall situation is marked by a low level of trust in the electoral framework and conduct of elections. In December 2017, without proper public consultation, the Parliament adopted a set of laws, which only partially address the recommendations of the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe (OSCE/ODIHR). A comprehensive electoral reform should be considered. The Presidential elections held in April 2018, were observed by the OSCE/ODIHR.

In October 2017, the Parliament established a parliamentary working group to propose a methodology for implementing the OSCE/ODIHR recommendations on the electoral reform. The working group was composed of ruling majority Members of Parliament (MPs) only, as the three opposition parties which qualify for membership did not appoint representatives. None of the sessions were open to the public, nor have the conclusions of the meetings been published. All interested parties were invited to provide comments and suggestions on how to implement the recommendations. However the revised electoral legislation itself was not subject to a public consultation.

The recommendations issued by OSCE/ODIHR Election Observation Mission, following the October 2016 elections, have partially been addressed, as the Parliament passed a set of election related laws in December 2017: amendments to the media Law, the Law on voter register and the Law on financing political entities and election campaigns. The draft amendments to the Law on councillors and representatives did not reach the required two-thirds majority.

As the framework electoral Law requiring a two-thirds majority was not amended, there were no significant improvements regarding the electoral administration or the residence and legal competence requirement, which have been OSCE/ODIHR priority recommendations. Recommendations for which no legal changes are needed also remain unaddressed, including measures to ensure greater transparency and professionalisation of the electoral administration, namely the State Electoral Commission. Given the remaining substantial shortcomings, a comprehensive electoral reform should be considered.

Involvement of women in politics remained low, including in the electoral administration. There are no women among the political party leaders and very few in the parties' leadership. Electoral lists satisfy minimum requirements in terms of gender equality. The cross-party Women Political Network has formulated concrete measures and financial incentives to increase women political representation



Following the 2016 parliamentary elections, the Special Prosecution Office (SPO) opened 198 cases to investigate alleged violations of the electoral rights. Of these cases, 113 have been closed due to lack of evidence, while in six cases, indictments have been issued. In three cases, suspended final sentences have been issued. In one case the sentence was two months imprisonment; in two cases the criminal charges were dismissed. Civil Society Organisations (CSO) and opposition political parties consider the judiciary's follow up as inadequate and as further eroding public trust in elections.

Following a short electoral campaign period, given the nomination of candidates late in the process, regular Presidential Elections were held in April 2018. The election was observed by national and international observers, including the OSCE/ODIHR Monitoring Mission.

There were 8 local elections in the reporting period. Local elections do not take place on the same day nationwide, but on a rolling basis; thus a prolonged and highly personalised election mood characterises the political landscape. Due to the electoral cycle, election observation is difficult, particularly for international observers, leaving ample room for claims of irregularities that cannot be independently evaluated. Local elections in Nikšić were boycotted by the opposition. For the local elections held in November 2017, both the governing party and the opposition parties reported irregularities on voting procedures and incidents between party activists. Irregularities were also reported in the February 2018 local elections, which resulted in a rerun in a limited number of polling stations.

There were no new developments in the political and judicial follow-up of the alleged misuse of public funds for party political purposes in 2012 (the 'audio recordings affair').

## Parliament

The political scene remains fragmented, polarised and marked by a lack of political dialogue, particularly in the democratic institutions where it belongs. Elected members of Parliament have an important role to ensure checks and balances. With the exception of one opposition coalition group and 3 independent MPs, who returned to the Parliament in December 2017, the opposition as a whole has boycotted its legislative activity since the Parliament's convocation in November 2016. Political dialogue and constructive engagement by all parties is required to enhance parliamentary accountability and oversight of the executive.

Following the October 2016 parliamentary elections, the new Parliament was convened in November. The number of women Members of Parliament (MPs) increased from 15 to 19, now accounting for 23 %.

The political scene has fragmented further, with serious rifts not only between ruling and opposition parties, but also within some opposition parties, which led to the creation of a new party in September 2017. This situation prevented meaningful political dialogue from taking place.

In spite of the fragmentation, the opposition has been overall united in enforcing a consistent boycott of Parliament's legislative activities and a more selective boycott of its sessions since November 2016. The opposition insists that the alleged election-day coup attempt in October 2016 has decisively affected the turnout and results of the elections, rendering them essentially flawed. This claim is strongly rejected by the ruling party.

Both the **legislative** and oversight role of parliament have been hampered by the opposition boycott. While the Parliament was nominally functional with 42 votes of 81 present (*In December 2017 the number reached 63*) the absence of the opposition negatively impacted

democratic scrutiny of the legislative procedure and the quality of parliamentary debate. In the absence of the entire opposition until December 2017, any law could be adopted within a time-frame which in a normally functioning parliament, with the opposition participating in the discussions and legislative committees, would be equivalent to an urgent procedure. The same is true for appointments made by the Parliament. There have been cases which are problematic from the point of view of integrity of selected candidates. The parliament has dismissed members of the national public broadcaster RTCG Council, while the related legal proceedings have still been pending. Parliament's capacity to scrutinise proposed legislation for compliance with EU *acquis* remains low.

The parliamentary **oversight of the executive** needs to be further enhanced. Parliament continued to address the State Audit Institution's audit findings in a limited manner, and there is no discussion or reporting on the implementation of major policies and legislation.

Parliament's **code of ethics**, which allows complaints from citizens, the media, and interested parties, has been in place since 2014, but no complaints alleging breaches of the code have been submitted since October 2016. No complaints were addressed to the human rights and anti-corruption committees. A considerable number of MPs attended training sessions on conflict of interest and good conduct. In 2017, 3 MPs have been deprived of their immunity at the request of the state prosecution, leading to 1 prison sentence in a case which the opposition claims constitutes political persecution. Two judicial proceedings involving opposition MPs are currently underway.

Parliament's administrative capacity has been enhanced, with a slight increase in the number of employees, although no new premises were provided. At administrative level, the Parliament maintained a high level of transparency.

The main legal framework regulating political parties is contained in the Law on Political Parties and the Law on the Funding of Political Subjects and Electoral Campaigns, amended in December 2017, with the aim to implement some of the OSCE/ODIHR recommendations. Additional shortcomings in the existing legal framework, including those identified by OSCE/ODIHR, are yet to be addressed. These include: (i) leaving unregulated the exact duration of electoral campaigns, (ii) failing to ensure further strengthening of women's participation in politics and (iii) further professionalisation of the Election Commission.

The level of budgetary political party financing is considerably above the regional average. The task of monitoring political party financing lies with the Anti-Corruption Agency, which has taken steps to develop a methodology for quality risk assessment and in-depth control, which has been lacking so far.

## **Governance**

The government's capacity to implement reforms, transparency and stakeholders' participation need to be strengthened, and the coherence of the policy-making system should be ensured through co-ordinated policy development. Political dialogue in democratic institutions is necessary for the overall sustainability and inclusiveness of governance. New units of local self-government have been established, while their competences in some fields have been reduced. Local public finances are still to be consolidated.

EU accession remains Montenegro's key foreign-policy goal, since Montenegro became a member of NATO in June 2017. The new government, elected in November 2016, led by Prime Minister Dusko Markovic, is composed of 19 ministers and 3 deputy prime ministers (2

of whom are also ministers). Four ministers are women, as in the previous cabinet. Newly established ministries include a Ministry of European Affairs and a Ministry of Public Administration. The Minister of European Affairs and Chief Negotiator resigned in February 2018 after the Anti-Corruption Agency found him to be in conflict of interest. The decision is being challenged in front of the Administrative Court.

While the framework is in place for ensuring coherent policy-making, policy development and co-ordination remain weak. The government should ensure that central government bodies cooperate and lead the strategic planning, oversee the execution, ensure the capacity to steer the policy-development process and establish a regular administrative-level coordination mechanism involving all central government bodies.

The government has been sharing EU accession process related documents, such as the rule of law non-papers, with the public, in line with the Law on free access to information. Stakeholders' inclusion in the EU accession process should however be further improved, and the process itself should be made more transparent. Systematic and genuine public stakeholder consultation is still not a standard feature of the legislative process.

The absence of a genuine political dialogue in the Parliament and the subsequent lack of parliamentary oversight have contributed to a significant increase in the number of laws submitted to the Constitutional Court by the opposition, civil society, the Ombudsman and others.

As regards **local self-government**, the adoption of the Law on Spatial Planning and Construction in September 2017 met with criticism from civil society and a number of mayors, given its political ramifications. The law centralises spatial planning and construction to the level of the Ministry of Sustainable Development and Tourism, thus abolishing the right of the local authorities to adopt and issue spatial plans and permits. The main opposition leaders have challenged the law in front of the Constitutional Court.

In July, the Parliament adopted the Law on the Old Capital which establishes a special fund of 1 % of the national annual budget for the development of the city of Cetinje, thus effectively doubling its municipal budget. The new legislation raises concerns over national and municipal fiscal consolidation. Municipalities in Montenegro continue to struggle with fiscal consolidation. All but one municipality adopted the Code of ethics for elected representatives and officials and the Code of ethics for local civil servants and state employees. Both are to be monitored by specific commissions.

### **Civil society**

Some progress was made in improving the legal and institutional framework for cooperation between the government and civil society organisations, particularly on setting the legal basis for public funding of Non-Governmental Organisations. There is a general acknowledgement that civil society has an important role in the accession process, but beyond CSOs' formal participation in various working groups, the conditions for a genuine consultation process remain to be strengthened. Mechanisms are in place for government to consult CSOs but these mechanisms need additional resources, clear rules and genuine involvement on both sides.

An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by the state institutions.

Since May 2017, the National Office for Cooperation with NGOs is subordinated to the Ministry of Public Administration. Its role is to monitor the implementation of the

government's NGO development strategy. The Council for the Development of NGOs, an advisory body gathering representatives of ministries and of NGOs, is still not functional.

There are several channels for dialogue between CSOs and public institutions on sectoral policies. CSOs participate in various working groups, including on accession negotiations. However, the efficiency and planning of the consultation process should be improved to make it genuinely inclusive. Cooperation between NGOs and local governments is still not sufficiently developed.

Conditions for voluntary work and civic activism should be improved so that they are more conducive to such activities. The legal framework for volunteering remains overly restrictive. The financial regulatory environment for CSOs should be improved.

In June 2017 amendments were adopted to the law on NGOs, with the aim of achieving a more effective system of public funding for CSOs. The amendments set a minimum percentage of the annual state budget to be allocated to civil society projects and introduce new standards and procedures for public funding of NGOs. The amended law also makes provision for a decentralised system of funding and a centralised system of strategic planning. This requires ministries to organise sector-specific consultations with relevant CSOs, if cooperation with civil society is part of their sectorial strategy. Secondary legislation in this area still needs to be prepared.

### 2.1.2. Public Administration Reform

Montenegro is **moderately prepared** with the reform of its public administration. **Good progress** has been made, notably through the adoption of new laws on civil servants and state employees and on local self-government aimed at implementing merit-based recruitment across the public sector, in line with the Commission 2016 recommendations. However, strong political will is still needed to effectively address the de-politicisation of the public service and the optimisation of the state administration, as well as to ensure efficient implementation and financial sustainability of reforms.

In the coming year, Montenegro should in particular:

- further ensure professionalisation and de-politicisation of the public service, notably by adopting the secondary legislation needed to implement the new laws on civil servants and state employees and on local self-government;
- substantially upgrade the quality of policy planning, by introducing a medium-term planning framework, including fiscal planning, and by ensuring the consistency and coordination of sector strategies;
- improve the quality of regulatory impact assessments and ensure that inclusive public consultations are properly conducted without unjustified restrictions on their scope.

#### *Policy development and coordination*

The legal framework and institutions are in place to ensure a coherent **policy-making system**, including for European integration. However, coordination among key centre of government institutions has been more focused on procedural issues than on substance, hence limiting the effectiveness of the planning system. Policy planning is mainly done on an annual basis, since the government has no comprehensive medium-term planning framework. The medium-term fiscal plan is not linked to policy plans. While several (sector) strategies do not yet have

proper costing, the first Medium Term Government Programme 2018-2020 was adopted in February 2018.

Structured dialogue between government and parliament on policy priorities, and on *acquis* alignment is not fully ensured, and several laws were adopted via urgent procedure (9% in 2016). In December 2016 tasks related to policy development and coordination were entrusted to the Ministry for European Affairs, and a new Ministry of Public Administration was established. Reports on implementation of Montenegro's Programme of Accession to the EU are published regularly. The 2018-2020 Programme of Accession to the EU was adopted in early 2018.

Inclusive and **evidence-based policy and legislative development** remains only partially ensured. Policy development capacity needs to be increased. **Public consultations** on legislative proposals are regulated by law, and they have to be performed using eGov portal which has eParticipation module for public consultations. However, they are not implemented in a uniform manner by all institutions, and they are often done too late in the process. Undue limitations to the scope of public consultations need to be avoided. Regulatory impact assessments are more systematically produced in the legislative process, but adequate resources need to be assigned to performing regulatory impact assessments by ministries and quality control by the Ministry of Finance needs to be ensured. The government is legally obliged to monitor and report on implementation of the central planning documents, however there is no legal requirement for ministries to report on implementation of sector strategies. Monitoring reports are publicly available, which enables **public scrutiny over government work**. Reporting focuses however on outputs rather than on outcomes.

#### *Public financial management*

The first annual monitoring report on implementation of the 2016-2020 **public financial management (PFM)** reform programme and action plan was adopted in March 2017. Civil society is not systematically involved in monitoring of the programme implementation. Several PFM reforms are progressing on schedule, but there have been delays in some areas, which require technical assistance to streamline reforms. In the coming period, Montenegro plans to focus on budget credibility and control, creating an effective system of cash management, public expenditures planning, budgeting execution and control, as well as a proper debt management strategy and fiscal risks analysis.

Montenegro's **budget transparency** has improved during the reporting period. The government systematically publishes the budget proposal, the enacted budget, and the in-year and final budget execution report, though line institutions are not yet proactively providing budgetary information. However, the quality and comprehensiveness of these documents need to be improved. The timing of the State Audit Institution reports fully respect the legal obligations and reports are made available to the general public. There has been progress in the area of public internal financial control, enhancing accountability and transparency; a transparency roadmap is integrated in the PFM reform programme, improving the quality, presentation and visualisation of the annual budget and in-year reports are drafted according to best international practices. However, Montenegro needs to further enhance budget transparency, notably by joining the Open Budget Index and by producing a citizens' budget.

#### *Public service and human resources management*

A new Law on **Civil Servants and State Employees** was adopted at the end of 2017. It aims to ensure merit-based recruitment for senior civil servants, improve procedures for testing



ability and selection, including at the highest managerial level, and enhance transfers, promotions and appraisal processes. It also foresees training for managers, and enhances managerial accountability and the delegation of powers in the recruitment and assessment procedures, by removing the political level from many such decisions. The final selection decision should as a rule be delegated to a clearly determined management level, which will also increase transparency, apart for a limited number of positions that report directly to the political level. Similar measures are included in the new law on local self-government adopted at the same time. Nevertheless implementing legislation and procedures need to be adopted in the coming months in order to implement these laws.

**Human resources management units** are in place across the state administration, but most need to be considerably strengthened. The human resources management authority (HRMA) is currently implementing the first nationally accredited training programme for human resources managers. A substantial human resource optimisation exercise was launched at the end of 2017 across the state and local administrations, which should reduce staffing needs overall by 5 % (at national level) by 2020 but also address the additional capacity needs related to European integration (mentioned in most of the chapters below). The central personnel register is being updated more regularly, but it has not yet been linked to the salary system. On the **remuneration system**, amendments to the law on salaries of public sector employees were adopted in April 2017 as foreseen by the fiscal strategy 2017-2020 specifically reducing the variable part of salaries by 1 % for most grades and 6 % more for senior staff. **Professional development** and training is provided by the HRMA. Training for managers is foreseen under the new law on civil servants and state employees.

**Integrity plans** are in place across the public administration and **integrity managers** have been appointed in most institutions. The anti-corruption agency monitors and publishes regularly reports on implementation and makes recommendations for improvement.

#### *Accountability of the administration*

The overall organisation of the state administration lacks legal clarity and does not ensure effective **lines of accountability** in many parts of administration. As there are no clear criteria for different administrative bodies, similar types of institutions may report to ministries, to the council of ministers or to the parliament. There has not been progress towards performance management. Rather, institutions continue to have a bureaucratic and process-oriented approach to planning, budgeting and reporting of their activities. Though managerial accountability remains underdeveloped and the delegation of decision-making powers limited, the Ministry of Finance analysed the situation, and presented the findings to the Public Administration Reform Council in late 2017. The new Law on civil servants and state employees also starts to address this with regard to recruitment decisions. (*See Chapter 32*)

**Citizens' rights to good administration** are regulated and are subject to internal and external oversight mechanisms, including the Ombudsman. However, the Ombudsman's and State Audit Institution's recommendations are not implemented consistently.

The **citizens' right to access public information** is regulated by the law on free access to public information, which was amended in April 2017 regarding the re-use of information and open data portal (see also under Chapter 23). Proactive disclosure of information on websites of public institutions remains limited, but the Agency for the protection of personal data and access to information has started supervising this across the public administration. Its capacity

was strengthened, but its 2017 budget was only increased slightly. Administrative silence by the public administration remains a concern and a major cause of citizens' complaints.

The legal framework for the **right to administrative justice** was enhanced in July 2017 by the entry into force of the law on general administrative procedures and the law on administrative disputes. The **right to seek compensation** is not well understood by the general public. Montenegro does not have a specific law on public liability, although a clear procedural framework exists. There is however no monitoring in place on the public liability requests and how citizens are compensated.

#### *Service delivery to citizens and businesses*

A more **user-oriented administration** is a government priority. The Law on electronic signature and identification was adopted April 2017, and a pilot project was launched for a government service bus, an infrastructure solution to ensure the data exchange between different registers across the public administration. Two new electronic services for citizens were also made available at the end of 2017, including a service to enrol children in schools and a public procurement service. However, no mechanisms are in place to monitor user perceptions or service delivery performance.

**Simplification of administrative procedures** is ongoing. The new Law on administrative procedures entered into force in July 2017, and the harmonisation of sectoral laws to the new law was finalised, though a lot of secondary legislation, which defines many administrative procedures, requirements, time limits and fees, still need to be harmonised with it. There is as yet also no government-wide interoperability framework to support further digitalisation and simplification of administrative procedures.

#### *Strategic framework for public administration reform*

Montenegro is implementing the **2016-2020 public administration reform strategy**. **Political support** is necessary to ensure the successful implementation of the strategy. To this end a PAR Council was established, led by a deputy Prime Minister, in late 2016. It has met twice so far. **Financial sustainability** of the reforms needs to be fully ensured. While most actions were costed in the 2016-2018 public administration reform action plan, they were often co-funded by donors and the actual funding from the annual state budget was not clearly established. Due to the reorganisations after the 2016 elections, the implementation of the 2016-2018 public administration reform action plan was delayed, notably with respect to the optimisation of the public administration, which will now start in 2018. The 2018-2020 action plan, adopted in January 2018, is more thoroughly costed thanks to the use of a clear methodology.

## **2.2. Rule of law and fundamental rights**

### **2.2.1. Chapter 23: Judiciary and fundamental rights**

*The EU's founding values include the rule of law and respect for human rights. A properly functioning judicial system and an effectively fight against corruption 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 intended to increase its independence and professionalism has yet to be fully implemented. Institutional capacity has been strengthened. However, corruption is widespread and remains an issue of

concern. On fundamental rights, Montenegro further aligned its legislation with EU standards and the work of the Ombudsman's Office in particular has improved, but more efforts are still needed on strengthening the institutional framework and effective protection of human rights in practice. On freedom of expression, recent developments challenging the independence of public media bodies raise concerns.

In the coming year, Montenegro should in particular:

→ step up efforts to increase the use of financial investigations in line with Financial Action Task Force (FATF) standards, and establish a track record of seizure and confiscation of criminal assets;

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

→ strengthen media freedom, including by clearly stepping up efforts to investigate cases of violence against journalists and by shielding public broadcaster RTCG and all other media from undue influence and political pressure.

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

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

Montenegro's judicial system is moderately prepared. During the reporting period, Montenegro made some progress in meeting the recommendations on strengthening the independence, professionalism and accountability of the judiciary. The capacities of the Judicial and Prosecutorial Councils have improved, judges and prosecutors were recruited for the first time under the new system and implementation of the new IT strategy has started. However, the recruitment, professional appraisal and promotion system of judges has yet to be fully implemented. In addition, a track record of implementation of codes of ethics and of disciplinary responsibility is still lacking, and human resources management has not improved.

In the coming year, Montenegro should in particular:

→ strengthen the independence and professionalism of the judiciary by fully implementing the 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 disciplinary responsibility for judges and prosecutors;

→ step up the work on the rationalisation of the judicial network including by ensuring better human resources management.

### **Strategic documents**

Montenegro's action plan for Chapter 23 outlines comprehensive judicial reforms. In addition, a 2014-2018 Judicial Reform Strategy and accompanying bi-annual action plan to implement it are in place (the most recent action plan covers 2017-2018). A mechanism for monitoring the implementation of the strategy is also 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. In January 2018, the mandate of the Prosecutorial Council expired. After the Parliament in two attempts failed to vote on a list of four new Council members out of renowned lawyers, the Law on the State Prosecution was amended in February 2018 in order to allow for the Parliament to vote on individual candidates.

The 2018 budget of the Judicial Council substantially increased to EUR 1.4 million, compared to EUR 864 774 in 2017. The 2018 budget of the Prosecutorial Council is EUR 541 114 (2017: EUR 455 877). Additional employees have been recruited in both councils. Even though further strengthening of the administrative and professional capacity of both councils is needed, they should in principle be able to implement the systems for recruitment, professional assessment, promotion and disciplinary accountability. However, they need to improve their capacity in strategic, budget and human resources planning, as well as their public communication. Both councils still need to improve transparency of their work, including by fully motivating and publishing decisions on promotions and appointments, disciplinary proceedings, and the minutes of their meetings. Members of both councils should also devote more time and show full commitment to performing their functions.

#### Independence and impartiality

Following the 2013 amendments to Montenegro's Constitution, judicial independence has been strengthened, including by formally reducing room for political influence on the appointments to the judiciary. However, attempted political interference, including by authorities internal to the judiciary, remains an issue of concern. A firmer political commitment is needed to ensure the full independence of Montenegro's justice system.

The principle of random allocation of cases is guaranteed by the law on courts and implemented automatically through PRIS, the judicial information system, although for very small courts there are certain limits. The practice of reallocating large numbers of cases between courts to reduce backlogs, risks undermining the right to a lawful judge in the absence of clear criteria.

Montenegro should strengthen impartiality of the judiciary by revising the provision in the Law on the Judicial Council according to which disciplinary sanctions can be imposed only if a judge fails to seek recusal in at least three cases.

The number of presidential pardons granted, which affect the independence of the judiciary, further dropped in 2017 to 1 case (down from 6 cases in 2016).

#### Accountability

Track records related to the enforcement of disciplinary accountability and to the codes of ethics for judges and prosecutors are still very limited. In 2017, the Commission for monitoring the implementation of the code of ethics for judges dealt with 18 cases (2016: 19 cases, 2 violations established) and did not find that any violations had occurred. In none of the 3 cases reported, a violation of the code of ethics of prosecutors was established in 2017 (2016: 3 cases, violation established in one case). Disciplinary proceedings initiated against one judge resulted in the statutory minimum sanction, while the proceedings initiated against one prosecutor resulted in 20 % salary reduction for 3 months. All cases that would give grounds for disciplinary action need to be followed up on.

Mechanisms to detect breaches of integrity rules and to enforce disciplinary penalties need to become more effective. Public awareness of existing complaint mechanisms should be further raised and the possibility of challenging the dismissal of complaints before the Judicial and Prosecutorial Councils should be introduced. Relevant decisions by the 2 councils need to be better motivated and a case-law has yet to be developed in this area.

The judicial inspection subordinated to the Ministry of Justice was strengthened in September 2017, with the number of inspectors going up from 3 to 7. Further improvement and effective enforcement of the judicial inspection system are needed, including more thorough and unannounced inspections.

Following the introduction of the bailiffs system in spring 2014, the disciplinary responsibility of bailiffs has become a cause for concern. In 2017, 8 disciplinary proceedings were initiated against bailiffs. In one of the cases, the bailiff in question was temporarily banned from performing its activity. In March 2017, amendments to the Law on bailiffs were adopted to ensure effective monitoring of their work and higher professional and ethical standards. However, to tackle this problem, further steps going beyond legislative amendments are needed, including appropriate training.

#### Professionalism and competence

Further to the completion of legislative reforms, Montenegro is now organising single nation-wide competitions for judges and prosecutors (8 vacancies for new prosecutors published in 2017), based on the new system applicable since 2016. The 2018-2019 plan of vacant positions was adopted in December 2017. Despite efforts of both councils to organise transparent and merit-based selections, challenges remain over the planning of recruitments and the transparency of selection procedures.

After the pilot phase of implementation of the new regular professional assessment system was completed in autumn 2016, the Judicial and Prosecutorial Councils reviewed the assessment criteria. Regular professional assessments of prosecutors are ongoing, while for judges they should start in early 2018. Scepticism within the judiciary towards regular professional assessment, which is one of the reasons for delays, needs to be addressed.

#### Quality of justice

Activities continued to harmonise jurisprudence, including with the case-law of the European Court of Human Rights.

Following the move of the Judicial Training Centre into new premises in January 2017, the Centre is now fully equipped and the number of staff has increased. For 2018, it was allocated its own budget of EUR 624 240 (2017: EUR 447 594). This allocation is still below the statutory minimum and for some specialised trainings the Centre continues to be dependent on donor support. The autonomous and self-sustainable functioning of the Judicial Training Centre needs to be guaranteed. Its administrative and managerial capacity, as well as cooperation with the Judicial and Prosecutorial Councils needs improvement without delay. The Centre also needs to play a more active role in identifying training needs on the basis of a training needs assessment, promoting training among the targeted audience, evaluating training activities, and producing training materials covered by copyright.

Instructions for collecting statistical data in compliance with the 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.

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. The system also allows for collection of comprehensive statistics, but its reliability continues to raise serious concerns. Replacement of PRIS with a new IT system is planned under the 2016-2020 ICT strategy for the judiciary. Alternative solutions are needed until the new IT system and all its features are operational. Such transitional arrangements should serve the purpose of allocating human resources more efficiently and set more realistic workload standards for judges, based on the results and recommendations of the case-weighting study completed in 2015.

The 2018 budget for the judiciary is EUR 37.8 million (0.9 % of GDP), which represents a marginal increase compared to 2017 (EUR 34.8 million, i.e. 0.82 % of the 2017 GDP). In 2018, EUR 28.8 million was allocated to courts (2017: EUR 26.4 million) and EUR 8.9 million to prosecutors' offices (2017: EUR 8 million). Given that the largest part of the budget is spent on salaries, the funds allocated remain insufficient, in particular to cover investment needs and improve overall poor judicial infrastructure. Montenegro has 41 judges and 17 prosecutors per 100 000 inhabitants. According to the CEPEJ, the European average is 21 judges/11 prosecutors per 100 000 inhabitants.

The impact of alternative dispute resolution continues to be low and has even declined. In 2017, the total number of cases referred to and solved through mediation (excluding labour disputes) fell to 161 cases compared to 429 in 2016. The total number of labour disputes referred for mediation was 2 055 (2016: 9 175). The use of mediation needs to be promoted further both among judges and parties to the disputes.

### Efficiency

Montenegro is in general not affected by substantial court backlogs. However, in the course of 2017, the case backlog increased with more than 25 %, from 32 313 cases pending at the end of 2016 to 40 780 pending at the end of 2017.

The total number of cases that have been pending for more than three years before all courts did not change considerably (3 206 cases pending on 31 December 2017, 3 214 pending at the end of 2016). In 2017, the disposition time, i.e. the average time from filing the case to a decision, was 295 days for first-instance proceedings in civil cases and 97 days for commercial cases (2016: 165 days for civil cases and 80 days for commercial cases). Montenegro needs to continue to work on increasing the efficiency of the judiciary, monitoring backlogs and reducing the number of cases pending.

The number of incoming enforcement cases before the courts has continued to fall, although slightly, following the introduction of the bailiff system (2016: 1 771; 2017: 1 688), while the number of pending enforcement cases has declined considerably (end of 2017: 10 521; end of 2016: 42 468). The numbers of appeals against decisions issued by bailiffs also fell (from 13 850 in 2016 to 8 224 in 2017). A centralised case management system for bailiffs has been established, which makes it possible to centrally monitor the recovery rate, costs and duration of proceedings. Enforcement of courts' decisions remains problematic.

While the 2016-2019 mid-term strategy for the rationalisation of the courts network was adopted in December 2016, all concrete rationalisation measures are postponed until after

2019. 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. Better human resources management also needs to be ensured.

#### Domestic handling of war crimes cases

Implementation of the war crimes prosecution strategy continued. Of the eight new cases opened by the Special Prosecutor's Office (SPO) for the fight against corruption, organised crime, war crimes, terrorism and money laundering in 2016, six are still in the preliminary investigation phase. In one of these cases, prosecution was not pursued due to lack of evidence. In September 2017, court proceedings started against an individual charged with crimes against the civilian population. In all the cases under preliminary investigation, the SPO had to rely on letters rogatory to the International Criminal Tribunal for the former Yugoslavia (ICTY) and to the prosecution services of the neighbouring countries.

By the end of 2017, 154 decisions on claims for compensation were final (December 2016: 125), and a total amount of EUR 1 485 510 (by end of 2016: EUR 1 097 713) had been awarded. Montenegro needs to ensure that victims of war crimes have equal access to justice, that reparations are in line with the national legislation, and that the proceedings are finalised within a reasonable time.

Despite some positive developments in the reporting period, Montenegro needs to further step up its efforts to fight impunity for war crimes. It needs to apply a more proactive approach in order to effectively investigate, prosecute, try and punish war crimes in line with international standards, and also to prioritise such cases. The judicial decisions reached so far have contained legal mistakes and shortcomings in the application of international humanitarian law. Charges of command responsibility, co-perpetration and aiding and abetting have so far not been brought.

#### **Fight against corruption**

Montenegro has some level of preparation in the fight against corruption. Despite some progress in particular as regards the institutional capacity, a more proactive attitude is still needed. Challenges related to the independence and priority-setting of the Anti-Corruption Agency need to be addressed. Financial investigations, seizure and confiscation of assets remain to be improved. Further improvements of the track record of successful investigations and convictions will only be possible in an environment where independent institutions are shielded from any undue influence and incentivised to fully use their powers.

In the coming year Montenegro should in particular:

- continue improving the operational capacity of the institutions and their cooperation;
- step up efforts to increase the use of financial investigations, including by improving operational capacity, and establish track records of seizure and confiscation of criminal assets;
- significantly improve track records in the areas of repression and prevention of corruption, including by imposing effective sanctions.

#### Track record

An initial **track record** of investigation, prosecution and final convictions in high-level corruption cases has been established, but needs to be further consolidated. Following the first, final and enforceable judgments in high-level corruption cases in February and December 2016, a further 14 final and enforceable judgements were issued in 2016 and five

in 2017, imposing sentences between 6 months and 3 years and 8 months. In addition, fines were imposed, and compensation was ordered in the form of return of property with an estimated value of approximately EUR 24 million. Most of these judgements were based on plea bargain agreements. Among the convicted individuals were several mayors, two judges and the former President of the State Union of Serbia and Montenegro who has not yet started serving his prison sentence. Trials are ongoing in other high profile cases processed in the previous period, including a case concerning 12 public officials.

In 2017, indictments were lodged in 10 cases of high-level corruption against 18 individuals and three legal entities, while new investigations were launched in 16 cases, involving, among others, former mayors and state and municipal officials. In the first months of 2018, indictments were lodged in two high-level corruption cases, involving two former mayors.

Precautionary freezing of assets (e.g. of a plot of land and company premises) was imposed in one case in which investigation is ongoing against 12 individuals, including two deputy ministers, and one legal person. However, the track record on **seizure and confiscation of assets** needs considerable improvement. New financial investigations were launched in 2017 against 53 individuals and 13 legal entities in relation to six high-level corruption cases.

Montenegro has made some progress in establishing a **track record** in the prevention of corruption. In addition, the amount of fines imposed by misdemeanour bodies is increasing. However, the practice of issuing sanctions below the statutory minimum is not having a deterrent effect and counteracts effective enforcement of rules on prevention of corruption. The Anti-Corruption Agency (ACA) should use its power to directly impose misdemeanour penalties.

For the period 2016-2017, 96 % of public officials submitted income and **asset declarations** within the prescribed time limit (2015/2016: 92.1 %). In 2017, the ACA cross-checked over 1 600 assets declarations and fulfilled its annual plan, which is based on a priority order. Misdemeanour proceedings for failure to submit income or asset declarations were instituted against 312 public officials and fines totalling EUR 42 090 were imposed (2016: EUR 38 270). Another 42 (2016: 40) misdemeanour proceedings were instituted due to irregularities identified in the asset declarations submitted. In these cases fines totalling EUR 6 720 (2016: EUR 3 680) were imposed. About 71 % of public officials and 75 % of civil servants gave optional consent to the Agency for access to their bank account for the purpose of verifying the data submitted in the income and asset declarations. Among those officials who gave such optional consent are 10 members of the government.

Since the beginning of 2017, the Agency initiated enquiries into inexplicable wealth against 24 public officials (down from 49 in 2016) but found no irregularities. The Agency is encouraged to perform more in-depth checks of officials on random samples, including searching for illicit enrichment, changes and transfers of assets, and identifying origins of assets.

In 2017, the ACA issued 127 opinions on **incompatibility of functions** (2016: 185 opinions and 58 decisions). Based on ACAs opinions, 37 public officials resigned from their office or function. Challenges remain regarding cases of **conflict of interest**, which are scarce. Moreover, recent opinions issued by the Agency, including those concerning members of the governing council of the public broadcaster RTCG and the Council of the Agency for Electronic Media, have shown significant weaknesses in the application of the law, the establishment of the facts and proper reasoning. This opened a debate over the need to shield



the Agency from undue external pressure. In February 2018, ACA's decision establishing conflict of interest in the case of the Minister of European Affairs resulted in latter's resignation. This decision is being challenged before the Administrative Court.

On the **funding of political parties and electoral campaigns**, the ACA continued to monitor the overall compliance of relevant entities in meeting the obligations laid down in the anti-corruption legislation. It also performed routine control checks of party financing along with oversight of election campaigns, registering a considerable increase in reported irregularities. On the October 2016 elections it initiated 405 misdemeanour procedures for noncompliance and 5 temporary suspensions of payment of budgetary funds to political entities (86 in the first half of 2016). No irregularities were noted in the preparations for the 5 municipal elections that took place in March and November 2017.

The ACA has not identified any abuse of public resources for party purposes, despite persistent reports from the opposition and civil society that such abuse is widespread. The ACA still needs to develop a quality risk assessment methodology and make more effective use of its investigative powers, including though more in-depth checks. New software enabling in-depth, result-oriented checks based on risk assessment and strategic planning has the potential to improve the Agency's track record in this respect.

The State Audit Institution (SAI) published positive audit reports on annual financial statements of 15 political parties, one conditional report and one negative report, while regularity audits yielded mostly conditional reports with recommendations for improvement.

In 2017, 5,577 initial requests for **access to information** were made to public bodies. Of these, the information requested was not provided in 1,951 cases (2016: 1 562 of a total of 6,426 initial requests for access to information). The Agency for Data Protection and Free Access to Information received 1 086 complaints of which it upheld 356 (2016: 1,122 of 2 687 complaints). Most were cases of administrative silence, i.e. cases where the requests remained unanswered by the public institutions, which is a matter of concern. In 2017 the Administrative Court ruled in 12 cases against the public body's decision not to grant access to information. Court decisions on access to information are however not effectively enforced. The increasing practice of declaring the requested documents classified in order to restrict access to information is a matter of concern (68 in 2017; 30 in 2016). Public institutions urgently need to improve implementation of the law and comply promptly with access to information requests, especially in areas where there is a risk of corruption.

Results on the protection of **whistle-blowers** remain limited. In 2017, the ACA received 69 reports on threats to the public interest (56 in 2016), and 2 requests for whistle-blower protection (8 in 2016). Protection was granted in one case. It further initiated 27 proceedings on its own initiative for determining the existence of a threat to the public interest and established such a threat in 16 of these cases (no such cases were reported for 2016). One misdemeanour proceeding is under way.

With the support of the ACA, **integrity plans** have so far been adopted by 688 (of 700) public bodies and 679 bodies have appointed integrity managers. Electronic submission of integrity plans and reports on their implementation is planned to start in 2018, which will make it easier to process and analyse them. The ACA continued initiating misdemeanour proceedings against public bodies which had not fulfilled the legal obligation to adopt an integrity plan; since 2016, the total amount of fines imposed was EUR 18 640. However, the practical impact of these plans on prevention of corruption is yet to be assessed.

On the implementation of the Law on **lobbying**, 6 lobbying certificates have been issued, but only one person obtaining such a certificate has so far registered with the ACA. These low numbers suggest that lobbying activities are being carried out outside the legal framework. The ACA has been addressing this issue through awareness raising, but it still needs to demonstrate a more pro-active approach in detecting, following-up and punishing breaches of the law. It should further focus its attention on potentially lobbied individuals in public institutions and bodies.

There are still hardly any cases demonstrating the effective implementation of **codes of ethics** for members of the legislative and executive authorities.

The impact of anti-corruption measures in **particularly vulnerable areas** remains limited. Despite greater staff numbers in some inspection services, there is still a strong and urgent need to improve and strengthen internal inspection mechanisms within the public administration and to improve their cooperation with law-enforcement authorities. For instance, inspection capacity in **public procurement** needs to be further improved. The ongoing introduction of full e-procurement is expected to help achieve more transparency and reduce opportunities for abuses. However, checks on the overall public procurement cycle remain a cause for concern.

### *Institutional framework*

#### *Prevention of corruption*

An Anti-Corruption Agency (ACA) with administrative investigative powers was set up in January 2016. Of the 60 planned positions in the Agency, 56 have been filled. Some progress was made on strengthening the capacity of the department for political parties and electoral campaign financing. However, intensified staff training on whistle-blower protection and lobbying is still needed.

The Agency's IT system which includes an electronic case management system and a system for electronic submission of reports is in place and is being upgraded continuously. It provides direct links to databases of other institutions (Central Registry of the Commercial Court, the Vehicle Registry, the Weapons registry, the Central Registry of Citizens, the Real Estate Administration, the Tax Administration, the Central Depository Agency, and the Registry of Criminal Records). This links make it possible to, for instance, cross-check data in real time and automatically detect potential incompatibilities of functions. The visibility and transparency of the Agency's web page has also improved, including the visibility of the electronic form for reporting corruption.

In November 2017, the ACA signed an agreement with the State Audit Institution. Several agreements with other relevant public institutions have already been signed and more are planned.

The ACA is still not perceived as sufficiently independent and proactive by the general public. Due to personal ties between its management and the political elite, allegations of its political instrumentalisation persist. To strengthen public confidence, the ACA should be allowed to operate independently of any political influence. Its management and staff should ensure maximum transparency, integrity and impartiality, and accountability. The ACA must further improve its communication and outreach activities.

## *Law enforcement*

The Special Prosecution Office (SPO), which was set up in 2015 has the lead in criminal investigations into corruption-related offences. Special prosecutors have been appointed and almost all specialised experts have been recruited. So far, 35 positions out of 37 provided for in the Rulebook on internal organisation adopted in March 2017 have been filled. Since mid-2016 the SPO is supported by a Special Police Unit (SPU), which is now fully staffed. However, due to the significant amount of cases dealt with by the SPO, the capacity of SPU should be considerably improved.

The leading role of the SPO in pre-trial investigations is well accepted and the relationship between SPO and SPU remains good, particularly thanks to the establishment of special joint investigation teams. In spite of this, the overall institutional and operational capacity of prosecutors, judges and police to fight corruption remains insufficient and needs improvement, particularly through specialised training. While there has been some progress, financial investigations are still not launched systematically in corruption cases and the concept needs further alignment with Financial Action Task Force (FATF) standards. The lack of financial investigation skills in the police and prosecution needs to be addressed as a matter of priority through targeted specialised long-term training. Only a few cases continue to be submitted to the prosecution by the police, and hardly any originate from official inspections or auditing bodies. **Political influence** should not be exerted on law enforcement and judicial officials by members of the executive and the legislative branch with the aim of interfering in their independent functioning.

There has been improvement in putting IT infrastructure in place, including setting up protected electronic channels between all prosecutors' offices and some ministries, and installation of a case management system for the SPO.

It is of utmost importance that both the SPU and the SPO are able to recruit the most suitable experts. Suitable premises for the SPO need to be provided without delay (*see also the section on organised crime under Chapter 24*).

## Legal framework

Montenegro is a party to all international anti-corruption conventions. The legal framework and secondary legislation on anti-corruption are in place. Passive and active corruption are both punishable under the Criminal Code. Montenegro is encouraged to make illicit enrichment a criminal offence. Out of 11 GRECO recommendations on the ethics and integrity of MPs, prosecutors and judges, 5 are considered to be fully implemented, and 3 partially implemented, while 3 recommendations have not yet been implemented.

In December 2016, amendments were adopted to the Law on the financing of political entities and election campaigns. As a result, public funding for the regular functioning of political entities fell from 0.6 % to 0.5 % of the state budget, effective as of 1 January 2017. In December 2017 further amendments to this Law were adopted to implement some of the OSCE/ODIHR recommendations. Additional identified shortcomings in the existing legal framework on political parties' financing, including those identified by ODIHR, are yet to be addressed.

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



framework. The high number of cases ending with plea bargains further raises concerns about transparency and consistency of the sanctioning policy. The use of plea bargain agreements needs to be carefully balanced against the public expectation that corruption-related crimes should be duly punished in accordance with sanctions stipulated in law, in particular when it concerns politically-exposed persons.

Amendments to the Law on free access to information were adopted in April 2017 aligning it with the EU *acquis* on re-use of public information. While these amendments are expected to speed up proceedings for obtaining information, there are concerns over authorities' increasing tendency to declare information as classified, thus excluding it from the scope of this law. For instance, the government has decided to mark all audio recordings of its sessions confidential.

### Strategic framework

The action plan for Chapter 23 outlines comprehensive reforms to prevent and combat corruption. It is complemented by an 'operational document' adopted in 2016 which sets out additional measure to prevent corruption in certain areas particularly vulnerable to corruption, such as public procurement, privatisation, urban planning, education, healthcare, local government and police. The impact of these measures, however, remains limited and Montenegro should develop more effective sector-specific plans for the prevention of corruption.

### **Fundamental rights**

Reforms to further align with the EU and international human rights standards have continued and progress has been made in particular on anti-discrimination legislation. Montenegro now needs to ensure that adequate institutional mechanisms are in place to protect vulnerable groups from discrimination. Implementation of the legislation remains weak and institutional capacity on human rights needs to be increased. The Roma and Egyptian minority remains the most vulnerable and most discriminated community. Gender-based violence and violence against children also remain serious concerns in the country.

To address these shortcomings, Montenegro should in particular:

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

No new ratifications of **international human rights instruments** took place. Montenegro has yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Montenegro continued its dialogue and cooperation with international human rights organisations and monitoring bodies, in particular of the United Nations (UN) and of the

Council of Europe (CoE). In 2017 Montenegro presented the reports on the implementation of the UN Convention on Elimination of all Forms of Discrimination against Women, and of the UN Convention on the Right of Persons with Disabilities. The third report on the implementation of the Framework Convention for the Protection of National Minorities was prepared in June 2017. The Report of the European Committee on Racism and Intolerance was adopted in September 2017.

Montenegro continued to ensure a good level of cooperation with the **European Court of Human Rights** and none of the Court's judgements against Montenegro are subject to the enhanced supervisory procedure. Since September 2016, 15 judgments against Montenegro were issued by the ECtHR. These concerned procedural aspects of the right to life (i.e. lack of effective investigation), the right to private life, and prohibition of discrimination. Violations were also found on the right to a trial within reasonable time and lack of effective remedy. A further 11 cases were concluded after the government gave a commitment to pay compensation for duration of proceedings. During the reporting period, 208 new applications against Montenegro were registered by the Court. On 1 February 2018, the total number of applications pending before the Court was 85.

Improvements are needed on the overall awareness of the institutions and judiciary of the rights protected by the European Convention on Human Rights (ECHR), their willingness to apply the standards in daily practices, and improve the reasoning of the decisions, including those of the Constitutional Court. Several activities are ongoing in this area, including capacity building in the judiciary and publication of selected ECtHR cases on the Supreme Court's homepage.

On the **promotion and enforcement of human rights**, the Ministry of Human Rights and Minorities (MHRM) and the Ombudsman's Office continued to receive assistance, with a view to strengthening their respective capacity. The MHRM plans to increase its staff. Several aspects of the Ombudsman's Office's work have improved, including its visibility, outreach and productivity. However, there is still room to increase its efficiency and the quality of its opinions. Public trust in this institution has improved as shown by the number of reported cases. Cases initiated by the Ombudsman on its own initiative have also increased. Cooperation with CSOs remains positive, but more systematic consultations would be desirable. The Ombudsman's Office is accredited under the Global Alliance of National Human Rights Institutions with a B status. Financial resources provided to MHRM and the Ombudsman's Office are not sufficient to enable them to efficiently carry out their tasks.

On the **prevention of torture and ill-treatment**, Montenegro has continued to implement the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment. The national preventive mechanism, whose capacity and independence have been strengthened, continued to work as a separate department under the Ombudsman. The incidents of police brutality reported in early 2018, and shortcomings and delays in investigating and prosecuting cases of alleged violence by law-enforcement officers show the difficulties in eradicating ill-treatment and establishing a record of deterrent sanctions. The same applies to cases of violence in prisons.

On the **prison system**, detention conditions continue to improve, including in juvenile detention facilities, but they remain poor overall. This is also the case for the provision of healthcare to inmates and for staff working conditions. On a positive note, the authorities have drawn up rules on the use of restraint as a means of coercion, contingency plans to better handle emergency situations in prisons and new instructions on healthcare. However,

trainings, awareness-raising or capacity-building among prison guards and other staff on fundamental rights standards in prisons still needs to be ensured. There are delays in the implementation of the alternative sanction system and there is a need to increase the capacity of the whole probation system. Rehabilitation and resocialisation programmes also remain limited.

On **protection of personal data**, the country has ratified the CoE Convention 108 on the Protection of Individuals with regard to Automatic Processing of Personal Data and its additional protocol. Amendments to the Law on Data Protection related to video surveillance were adopted in March 2017. However, implementation of the data protection legal framework remains weak. Work has not yet started on aligning the broader legal framework with the new EU data protection *acquis* in the field. The Agency for Personal Data Protection and Free Access to Information employed new staff but its activities are still limited. Awareness-raising should continue, as should training on data protection standards, including for judges. Further efforts need to be undertaken to align the personal data protection legislation with the General Data Protection Regulation 2016/679 and Directive 2016/680.

While **freedom of thought, conscience and religion**, and equal treatment of all religious communities are guaranteed by the Constitution, there has been no progress in preparing the new Law on Freedom of Religious Belief. Tensions between the Serbian and Montenegrin Orthodox Churches continued.

### **Freedom of expression**

Montenegro has some level of preparation on freedom of expression. No progress was made in the reporting period. There have been no notable developments on investigations into old cases of violence against journalists. Political interference in the national public broadcaster (RTCG) and the Agency for Electronic Media (AEM) are a matter of serious concern. The media scene remains highly polarised and challenges persist in understanding the role of free media. The number of defamation cases remains high, also due to weak self-regulatory mechanisms. Training of the judiciary on ECtHR case-law on freedom of expression needs to continue.

In addressing the shortcomings, Montenegro should in particular:

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

#### Intimidation of journalists

On **freedom of expression**, progress on addressing violence against journalists and media remains very limited, especially in dealing with old unsolved cases. Seven cases of attacks on journalists took place in 2017. Three of these cases resulted in misdemeanour proceedings, while in one case the authorities found no elements of criminal or minor offences. Criminal investigations into old cases, including the 2004 murder of an editor-in-chief, continue to be ineffective and the authorities have so far failed to step up and prioritise efforts to solve these cases. In October 2017, a first-instance court awarded compensation to a journalist for lack of effective investigation into an attempt on his life in 2007. In the same case, in November 2017 the Constitutional Court awarded the journalist additional compensation. Protection offered to

the same journalist was withdrawn based on the assessment that the threat was no longer imminent. There have also been reports of undue pressure on journalists by law-enforcement to disclose their sources.

The ad hoc commission monitoring violence against media, which was re-established in September 2016, has so far produced three reports focusing on more recent cases, identifying a number of shortcomings and delays in investigations. The commission's recommendations, which were endorsed by the government, need to be fully implemented. Efforts should be stepped up to prosecute these cases effectively, also so as to avoid the application of the statute of limitations. The authorities are expected to demonstrate zero tolerance for threats or attacks against the media, and should refrain from making statements that may create an environment not conducive to freedom of expression.

#### Legislative environment

The new Law on RTCG came into force in September 2017 providing for a yearly financial allocation to RTCG amounting to 0.3 % of GDP. Amendments to the Law on electronic media aimed at further alignment with the EU *acquis* were adopted. Montenegro needs to review its laws governing or affecting the media sector in a thorough, coherent and coordinated manner, in order to ensure their alignment with EU *acquis* and international media freedom standards.

#### Implementation of legislation/Institutions

The still relatively high number of defamation cases points to weak self-regulatory mechanisms. There is still no uniform approach to sanctions, suggesting that ECtHR case-law is not yet sufficiently known. Self-regulatory bodies continue to reflect the overall polarisation of the media scene in Montenegro. Effective and uniform application of the revised code of ethics of journalists has yet to be achieved. Dialogue between various self-regulatory mechanisms should be further enhanced to improve professional standards in media reporting.

While no new cases of blocking internet services have occurred in 2017, there has been no administrative or judicial follow-up of the cases of blocking freeware and cross-platform instant messaging services on election day in October 2016, which suggests the fragility of freedom of expression online.

#### Public service broadcaster

Initial positive developments on RTCG's editorial independence and professionalism were challenged by instances of undue political interference and political pressure on its Council. Several members of the RTCG Council were dismissed and replaced by the Parliament in late 2017 and early 2018. In its new composition, the RTCG Council voted out its chair, replacing him with one of the newly appointed members. Concerns about political pressure also surrounded the delayed signature of the government's agreement with RTCG on the provision of public broadcasting services and the approval of the collective agreement regulating the work of its employees.

#### Economic factors

Concerns about transparency and non-discrimination in state advertising persist. Following a ruling of the Constitutional Court, the State is no longer allowed to provide funds to commercial broadcasters, as it did in the past via AEM. The fact that many media outlets are

not financially sustainable has a negative impact on the quality of reporting and professionalism.

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

**Freedom of assembly and association** is guaranteed by the Constitution and the relevant legal framework is in place. While no major developments can be reported for 2017, there is a need to strengthen the practical implementation of standards in this area.

On **property rights**, in September 2017 Parliament adopted a new Law on spatial planning and construction. Arbitrary interference in property rights in the application of this law needs to be prevented. The process of restitution of properties expropriated in the past remained slow. Montenegro needs to provide for fair proceedings within a reasonable time when implementing its existing legal framework on property rights and restitution of property.

On **non-discrimination**, amendments to the Law on the prohibition of discrimination were adopted in June 2017, aiming at further alignment with the *acquis*; however, court cases remain rare. Employment discrimination on the basis of political affiliation continues to be reported (*for issues of discrimination in employment see also Chapter 19*). The work of the Ombudsman's Office in this area has improved, but its capacity needs to be further strengthened. Progress towards the criminalisation of racist and hate speech was made with new amendments to the Criminal Code in July 2017, but the number of prosecuted cases remains low.

On **equality between women and men**, there are concerns about the practical impact of the relevant legislation. In addition, the effectiveness of the gender referral mechanism needs to be ensured. During the reporting period, Montenegro adopted the 2017-2021 action plan on gender equality, but implementing it requires adequate human, technical and financial resources. Montenegro should also adopt measures to counter stereotypes and discriminatory practices, trafficking and exploitation of prostitution. It is also necessary to improve women's political participation, education and economic empowerment, and to address the needs of women facing multiple discriminations. Another area of concern is the phenomenon of sex-selective abortions.

With the adoption of the Criminal Code in July 2017, Montenegro aligned its legislation with the Istanbul Convention on **violence against women and domestic violence**. However, the implementation of the Convention is proceeding slowly and gender-based violence remains a serious concern. There is little improvement in the capacity and gender sensitivity of existing institutions. The limited numbers of protection orders issued in cases of repeated reports of violence needs to be addressed. Effective victim support services are yet to be provided, along with better and more accessible legal aid.

On the **rights of the child**, there is a need for better coordination of policies as no single institution has the overall responsibility on this issue. In April 2017, the 2017-2021 strategy for the prevention and protection of children from domestic violence was adopted. Amendments to the Family Law have provided better procedural guarantees for the rights of the child and for explicit prohibition of corporal punishment. However, more efforts are



needed to ensure adequate implementation. The Ombudsman's Office has intensified its work on this issue and the number of child-related applications is increasing. More efforts are also necessary to address child begging and forced child marriages which affect mostly the Roma community, as well as the overall violence against children. Treatment of juveniles in prisons also calls for improvement. The very low number of reported cases of sexual violence against children raises concerns about reporting and identification of victims. The de-institutionalisation process has to continue and needs to be supported by alternative services such as foster care, kinship care and community-based care.

Little progress was made on the **rights of people with disabilities**. Legislative alignment with international standards, including the UN Convention on the Rights of Persons with Disabilities, is progressing slowly. The issue of deprivation of legal capacity needs to be addressed without delay, in line with the Convention. There is no clear budget allocated for implementing the strategic and legal framework. Montenegro still needs to provide for regular and sustainable financial support for organisations of people with disabilities, and adequate spending of funds for professional rehabilitation. It also still needs to improve the consultation mechanisms for people with disabilities and their representative organisations. The country should also adopt comprehensive strategies on de-institutionalisation and accessibility. The adaptation of public buildings, including the accessibility of polling stations and public university faculties, needs to continue.

Montenegro continues to be a regional leader on the **rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons**. Overall, the authorities have continued to show overall openness on this issue and collaboration with civil society is strong. Preparation of the Law on civic partnership is ongoing. In September, the National Pride Parade took place in Podgorica without any incidents, but there was an increase in reports of hate speech targeting LGBTI persons, including from high-level religious representatives. Despite an improvement in relations between the LGBTI community and the police, records of prosecution based on hate speech need to improve. Continued and proactive efforts are still needed to ensure full and effective implementation of the existing legal framework to protect the rights of LGBTI people and to tackle public attitudes towards them, including through anti-discrimination campaigns.

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

In the field of **procedural rights**, substantial efforts are needed to ensure full alignment with the *acquis*, particularly on rights for suspects and the accused in criminal proceedings, as well as on victims' rights, and sufficient budgetary allocations are required to enforce such rights. Dissemination of information on free legal aid also needs improvement. Concerns still persist about the proper application of ECtHR case-law in cases of prolonged pre-trial detention.

Some progress was made on **minority rights**. In April 2017, the new Law on the rights of minorities was adopted, which should eliminate the risk of conflict of interest in the process of granting funds to minorities. In order to secure smooth implementation, the relevant implementing legislation should be swiftly adopted and the capacity of MHMR strengthened.

The latest strategy for the social inclusion of **Roma and Egyptians** (2016-2020) focuses on legal status, education, employment, housing, health, social welfare and culture identity and information. An action plan was adopted in March 2017. However, the budget provided for the strategy is insufficient to achieve its objectives.

Despite some progress, Roma remain the most vulnerable and discriminated community in the country. On education, there was progress on the number of children enrolled in pre-schools and primary education, while preparatory pre-school education has been extended from 2 to 4 weeks. Other positive measures include provision of free text books, scholarships, enrolment through quotas in secondary and university education, summer camps for Roma students and provision of transportation in Podgorica. However, the level of knowledge of the official language remains poor, prevention measures against school drop-outs are not implemented, and insufficient attention is given to adult education. Only one third of Roma students complete compulsory education and just 3 % (the lowest in the region) complete secondary education. Efforts to include Roma in the labour market are not yielding satisfactory results; their labour force participation is decreasing and informal employment continues to be high. There is a need to improve outreach, adjust mainstream employment activities to the Roma situation and ensure sustainability of results. The great majority of Roma have access to health insurance coverage although the percentage of coverage has dropped since 2011.

The vast majority of Roma live in poor housing conditions and many of them live in segregated settlements. Also, nearly half of the households are not legalised. Access to public services remains a challenge. Following the successful closure of the Konik II camp by providing social housing, the authorities should address the housing conditions of domiciled Roma and the risk of evictions in other municipalities. An estimated 16 % of Roma lack civil registration. Additional efforts are needed on the protection and promotion of the Romani language.

On displaced and **internally displaced people** (IDPs), during 2017 the Ministry of Interior significantly reduced the number of pending applications for resolving the status of IDPs. Out of 14 781 claims, 14 391 were processed, in 12 064 cases IDPs acquired the status of foreigner with permanent residence, 243 claims were dismissed and 2 093 rejected or proceedings were suspended due to incomplete documentation. 390 applications are still pending. However, there are still a number of cases of undocumented people.

Montenegro is a party to all major international conventions relating to **statelessness** and with the new law on foreigners adopted in February 2018 a separate procedure for determining statelessness was introduced. So far, there are no officially recognised stateless persons, despite having an estimated number of 486 people who consider themselves stateless living in the country.

On **citizens' rights**, Montenegro's preparations to develop and implement an investors' citizenship scheme continued. As a candidate country, Montenegro, when using its prerogatives to award nationality should act in a spirit of sincere cooperation and should refrain from any measure which could jeopardise attainment of EU's objectives.

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

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

Montenegro is **moderately prepared** to implement the *acquis* in this area. The legal and strategic frameworks are now largely in place. **Some progress** was achieved, in particular on the migration-related legal framework. In the fight against organised crime, there is an initial track record of prosecutions in the fight against the smuggling of migrants and against drug

trafficking. However, further results are needed to produce a convincing track record, in particular in the fight against money laundering and trafficking in human beings.

In the coming year, Montenegro should in particular:

→ develop a strategic approach towards financial investigations, including by (i) adopting the FATF concept on financial investigations; (ii) automatically implement financial investigations when dealing with organised crime, terrorism, money laundering and serious corruption cases; (iii) start financial investigations from the very start of the criminal investigation; and (iv) apply a multidisciplinary and proactive approach to financial investigations;

→ continue to improve its capacity to deal with sudden increases in mixed migration flows, in particular when it comes to human and material resources;

→ continue to: (i) work on enhancing cooperation with neighbouring countries on border management issues; (ii) increase resources devoted to modernising border infrastructure and to the surveillance of borders, and (iii) implement anti-corruption measures.

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

### **Fight against organised crime**

Montenegro has **some level of preparation** in the fight against organised crime. **Some progress** was made on strengthening the regulatory and institutional framework, which is now largely in place. However, the track record on some forms of organised crime, for example on money laundering as a stand-alone crime and trafficking in human beings, remains limited. Montenegro made little progress on implementing previous recommendations.

In the coming year, Montenegro should in particular:

→ step up efforts to establish a track record of investigations, prosecutions, final convictions, seizures and confiscations of proceeds of crime in organised crime cases, with particular focus on money laundering and trafficking in human beings;

→ remove legal and regulatory obstacles in the investigation phase, by promoting proactive investigations and a more strategic approach towards financial investigations inspired by the ‘EU action plan for the way forward with regard to financial investigations’;

→ carry out an in-depth reform to raise the professionalism of the police, including by ensuring a centralised, transparent and merit-based recruitment process, and by attracting appropriate expert profiles.

### Institutional set-up and legal alignment

The total number of police officers is 3 940. There are 633 police officers per 100 000 inhabitants, compared to the EU average of 211 in 2015.

The legal and institutional framework to fight against organised crime is largely in place and aligned with EU *acquis*, with the exception of the much-needed reform of the police. A new Law on internal affairs, which is expected to introduce structural changes in the organisation of the police, including a merit-based recruitment, evaluation and promotion system, is awaited. Following the application by the Committee of Experts on the Evaluation of



Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval) of step 2 of the compliance enhancing procedures to Montenegro in December 2016, the country amended its legislative framework. However, amendments to the Law on the prevention of money laundering and terrorism financing, are still to be adopted, including to ensure further alignment with the newly adopted standards of the Financial Action Task Force (FAFT).

The Special Police Unit (SPU), dealing with high-profile organised crime cases, is now staffed with the 20 posts provided for. In the Special Prosecutor's Office (SPO), 35 out of the 37 posts provided for are currently filled. In addition, the number of specialised staff assisting the special prosecutors has increased.

Montenegro has reached a good level of preparation to implement the *acquis* on international **police cooperation**. The Automated Fingerprint Identification System (AFIS) became operational in March 2017. As required by the *acquis*, Montenegro has now five full-time contact points for the exchange of intelligence with Member States' law-enforcement authorities, and one national contact point on football matches and for the protection of public figures. The Schengen Information System has been gradually incorporated into the national database and the Supplementary Information Request at the National Entries (SIRENE) office will be operational in 2019. Montenegro actively and efficiently participates in regional and international police cooperation through Europol, Interpol and the Southeast European Law Enforcement Centre. Some 2 795 pieces of information were exchanged through Europol from January to October 2017. Montenegro integrated the Secure Information Exchange Network Application (SIENA) into a national case management application, for the purpose of automatic communication with Europol. However, Montenegro does not yet have the technical possibility to carry out automatic data exchange of DNA, fingerprints and vehicles.

On its **strategic framework**, Montenegro has sectoral strategies and action plans on the fight against organised crime, including on the fight against human trafficking beings and money laundering, the prevention of drug abuse and of arms trafficking. A new national Serious and Organised Crime Threat Assessment was adopted in December 2017, identifying 6 priority areas for 2018-2019 (terrorism and religious extremism, drug smuggling, illegal migration, serious criminal offences arising from conflicts between organised crime organisations, loan sharking and high-level corruption).

#### Implementation and enforcement capacity

Investigations for the criminal offence of organised crime were launched against 63 people, with 43 indicted. Investigations into cybercrime, including online child sexual abuse, remain very rare. On human trafficking, the first prosecution in the last three years was initiated during the reporting period, but did not result in a criminal conviction. Also, there have been no convictions on money laundering.

Powerful criminal groups operate in and from the country. Their activities include drug trafficking, cigarette smuggling, migrant smuggling, money laundering, organised property crimes and crimes against individuals. Criminal activities lead to frequent gang-related murders. Fighting organised crime and corruption remains crucial to countering criminal infiltration of the political and economic systems.

A gap remains between identified strategic priorities and operational priorities. Conditions should be created to enable both the SPU and the SPO to further recruit and retain the most suitable high-level expert profiles. To retain its experts, the SPO needs to review its job classification to ensure sufficient remuneration. The precarious conditions in which the SPO

is housed need to be addressed. Overall, there is a good cooperation between the SPU and the SPO, particularly since special joint investigation teams have been set up.

Measures are also needed to strictly ensure that there is no political interference in the operational activities of law-enforcement bodies and the prosecution of cases. In addition, a number of technical shortcomings, both of a legal and operational nature, still prevent Montenegro from achieving more convincing results in this area.

Proactive investigations launched following **intelligence-led policing** remain rare compared to those launched on the basis of signals received. The police should act more on its own initiative and prosecutors should delegate more actions to the police. This much-needed shift in investigative practice requires a better exchange of data between the local and the central levels. Information gathering by the police continues to be hindered by the lack of direct electronic access to key databases. A secured channel of communication, established in October 2017 between the main stakeholders (i.e. the Ministries of Justice, Interior and Finance, the Supreme State Prosecution and the Supreme Court), is expected to foster inter-agency exchange of data and to facilitate investigations and prosecutions.

**Financial investigations** remain mostly confined to asset confiscation and are launched only when a criminal investigation is well advanced and not at the same time as the criminal investigation. Legal conditions for the launch of a financial investigation are overly formalistic. Montenegro should develop a strategic and proactive approach with regard to financial investigations.

As regards **asset confiscation** there were 12 cases of permanently seized property in 2017 (against 37 in 2016) and 20 cases of temporarily seized property in 2017 (against 5 in 2016). However, most confiscations target the property whose use contributes to the commission of a crime and not the proceeds of the crime. Confiscation of criminal assets should become a strategic priority in the fight against organised crime, terrorism and high-level corruption. Criminal groups engage in an increasingly wide range of profitable illegal activities and reinvest substantial profits in the economy. Montenegro has an Asset Recovery Office, with a specialised unit to manage seized assets. However, the tools for freezing, managing and confiscating criminal assets are not effective enough. Montenegro should therefore develop and implement a more comprehensive and coherent legal framework for the confiscation of proceeds of crime.

In line with the EU *acquis*, Montenegro should in particular: (i) focus on implementing rules on confiscation of assets which are not directly linked to a specific crime, but which clearly result from similar criminal activities committed by the convicted person (**extended confiscation**); (ii) focus also on rules on confiscating criminal assets that were purposefully transferred from the suspect to a third party (**third-party confiscation**); (iii) allow confiscation of criminal assets where a criminal conviction is not possible, in particular because the suspect is deceased, permanently ill or has fled (**non-conviction based confiscation**); and (iv) ensure that competent authorities more systematically temporarily freeze assets that risk disappearing if no action is taken, subject to confirmation by a court as soon as possible (**precautionary freezing**). In addition, it is crucial that financial investigations into a person's assets are allowed to continue for years after a criminal conviction in order to fully execute a previously issued confiscation order (**effective execution**). Montenegro also should urgently step up its capacity to manage frozen or confiscated assets so that they do not lose economic value (**asset management**).

The fight against **money laundering** is not efficient enough to produce convincing results. A couple of ongoing criminal investigations on suspicion of money laundering are reported, but only one case has been brought before the court in recent years (*see also Chapter 4*). Money laundering is often not prosecuted as a stand-alone crime, but in connection with other criminal offences, which hampers progress in this area. Acquittals of defendants in some high-profile cases send negative signals and raise concerns about the quality of investigation and evidence gathering in money laundering cases. The ability of courts to remain shielded from political interference in high-profile cases needs to be asserted and supported by a strong and more professional evidence-based investigation. A more balanced use of plea bargain agreements in organised crime cases could avoid an impression of impunity.

Montenegro made no progress in the fight against **human trafficking**, although the legal, institutional and strategic frameworks are in place and are being continuously improved. The failure to identify victims and to detect the organised and forced nature of prostitution, of child begging and of certain forms of labour brings into question the political will and ability of the police and the prosecution service to effectively address this type of crime. Proactive investigations must become general practice in this area. All stakeholders (i.e. the police, the prosecutors, the judges, the labour inspection, and the social workers) need to improve their operational capacity and their ability to work together in a multidisciplinary approach on the prevention and repression of trafficking in human beings and on the protection of victims. Cooperation between NGOs and police units needs to improve and create the conditions for an efficient referral of cases from NGOs to the police. Awareness of international human rights standards and case-law among magistrates, the police, social workers and labour inspectors needs to be strengthened. Montenegro needs to demonstrate that it is capable of establishing a track record in this area.

Montenegro is participating in the implementation of the Action Plan on illicit trafficking in **firearms** between the EU and the South East Europe region (2015-2019). Montenegro implements a national Strategy for Control and Reduction of Small Arms and Light Weapons and Ammunition and its Action Plan for 2013-2018.

There are persistent concerns relating to fight against **illicit tobacco trade** through Montenegro, especially in the port of Bar, which serves as a platform for smuggling counterfeit cigarettes into the EU together with legally produced and illegally traded cigarettes. Montenegro is actively stepping up its cooperation with European customs authorities to address this issue. More needs to be done to develop a solid track record, including a more systematic check on cargo ships' traffic, strengthened cooperation between border police and customs, improved proactive investigations and more frequent use of financial investigations to detect the organised criminal set-up beyond apparently isolated smuggling cases.

## **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, although the law on the prevention of money laundering and terrorism financing still needs to be amended, in compliance with Moneyval recommendations. Cooperation with Interpol has continued on maintaining database integration, especially for preventing foreign fighters from crossing the borders. In July 2017,

Montenegro ratified the Additional Protocol to the Council of Europe's Convention on the Prevention of Terrorism.

#### Implementation and enforcement capacity

The implementation of the 2016-2018 strategy to combat violent extremism is delayed due to insufficient capacity and resources. The number of investigations and prosecutions remains very low in this area. This type of crime is not the most prominent in the work of law-enforcement agencies, as the country has been only marginally affected by the phenomenon of radicalisation and foreign fighters so far. There is evidence of approximately 23 departures of nationals (including 5 women and 3 children) to the battlefield in Syria since the beginning of the conflict, out of which 6 reportedly died, while 10 returned to Montenegro. The SPO is conducting preliminary investigations into three cases of Montenegrin nationals who have reportedly fought in the war zone or financed the departure of foreign fighters to the battlefield. In addition, a few Montenegrin nationals have reportedly been fighting in eastern Ukraine on the side of pro-Russian separatists. Two fighters were prosecuted and convicted upon returning to Montenegro for participation in a foreign armed formation. As for other types of terrorist threats, the trial related to the election-day coup attempt started in September 2017 before the High Court in Podgorica.

Despite the relatively low visibility of the terrorist threat in Montenegro, especially relating to radicalisation and the return of foreign fighters, institutional awareness needs to be increased to monitor possible terrorist threats. Preventive anti-radicalisation activities in this area need to be developed, as well as reintegration measures when radicals return, as provided for in the strategy to combat violent extremism. Montenegro should appoint a national focal point for preventing and countering violent extremism. A track record on preventing and addressing terrorism financing still needs to be developed.

### **Legal and irregular migration**

#### Institutional set-up and legal alignment

The strategic framework on legal and irregular migration has largely been in place since the adoption in February 2017 of the 2017-2020 strategy for integrated migration management. The strategy aims to develop an integrated approach to migration management. However, inter-ministerial cooperation on migration still needs substantial improvements.

A new law on foreigners was adopted in February 2018. It regulates the entry, exit, movement, stay, rights and work of foreigners in Montenegro, but also returns, including voluntary returns, entry bans (thus aligning the legal framework with the EU *acquis* on both legal and irregular migration). A substantial amount of secondary legislation, regulating in particular the application procedures for the different categories of foreigners and stateless people, will need to be adopted for its implementation. Currently Montenegro does not have a separate procedure for determining statelessness, despite having ratified the relevant convention in 2013. On irregular migration, amendments to the Criminal Code allowing for the implementation of the Protocol to the UNTOC Convention concerning the Smuggling of Migrants were adopted in May 2017.

Montenegro has 13 implementing protocols on readmission with EU Member States and 10 readmission agreements with non-EU countries (including with all its neighbouring countries, the former Yugoslav Republic of Macedonia and Turkey).

## Implementation and enforcement capacity

In 2017, 614 people were prevented from illegally crossing the border, of which 438 outside border crossings. Investigations into migrant smuggling are regularly conducted, often in cooperation with partner countries' police services.

The readmission agreement with the EU continues to be implemented smoothly. There were 379 readmission requests from EU Member States in 2017. Amongst all third countries, Montenegro shows the highest return rate from the Member States and Schengen-associated countries. The acceptance of readmission requests concerning third-country nationals remains low. Cooperation with the main readmission partner countries among Member States has to be improved in this regard.

At the end of 2017, Montenegro faced a large influx of migrants, mainly from North Africa, which put the Centre for Irregular Migrants under pressure. Some 234 irregular migrants were accommodated during the year, compared to 123 in 2016, while 85 irregular migrants were returned.

Although Montenegro is so far outside the main Western Balkans migration route to the EU, it must strengthen its capacity to cope with sudden increases in migration-related pressure and urgently address the issue of reception capacity, including particular attention to children. The relevant action plan in the event of a possible influx of refugees and migrants does not make many references to their specific needs. In the fight against migrant smuggling, law enforcement agencies should make a better use of regional initiatives and of the possibility to participate in Joint Investigation Teams.

## **Asylum**

### Institutional set-up and legal alignment

The legal framework on asylum has been aligned with the EU asylum standards since the entry into force in January 2018 of the new asylum law. Some by-laws, in particular on safe countries of origin, are still to be adopted. Under the new law, the Ministry of Interior takes over the management of the Centre for Asylum Seekers, thus centralising the main functions of the asylum system (i.e. first-instance determination of international protection and reception services). The integration of refugees, including access to employment, remains under the Ministry of Labour and Social Welfare's responsibility. The law also makes provision for implementing the EU *acquis* on the content of international protection; this fundamental aspect of the asylum policy will require stronger preparation and better coordination of the relevant ministries.

Another important change is the transfer of competences on asylum appeal decisions from the State Asylum Appeal Commission to the Administrative Court. The State Asylum Appeal Commission received 156 complaints in 2017 and accumulated a backlog of about 110 cases. There is no legal provision regulating the transfer of these cases to the Administrative Court. Asylum seekers who filed appeal complaints have been waiting for several months and in the meantime remained accommodated in the Centre for Asylum Seekers, the capacity of which was already saturated.

All stakeholders, including the Directorate for Asylum of the Ministry of Interior, the Asylum Office, the Administrative Court and the social ministries, will need further training and capacity building to be able to fulfil their new tasks and responsibilities under the law.



### Implementation and enforcement capacity

Nine out of 10 positions in the Asylum Office are filled. The new asylum law raises standards in the asylum procedure, and the human capacity and expertise of the Office may need to be strengthened to comply with these standards.

The number of asylum applications grew considerably from 335 in 2016 to 849 in 2017. Algerian nationals accounted for almost half of the applicants, followed by Iraqi, Moroccan and Syrian nationals. As in previous years, most applicants absconded before the end of the procedure, as most asylum seekers do not perceive Montenegro as their final destination country. Therefore the number of people under international protection in Montenegro is small - 28 people in total at the end of 2017. The system is nevertheless at risk of being congested by a continuous rise in applications and of facing consequent overcrowding in the reception facilities for asylum seekers.

The number of asylum seekers accommodated throughout the year increased from 259 in 2016 to 799 in 2017. The Centre for Asylum Seekers has specialised staff such as social workers, psychologists, nurses, but it continued to face staffing issues which resulted in delays for the provision of some basic services such as healthcare. To complement the Centre for Asylum Seekers, the Centre for Foreigners (albeit a detention facility) and hotel accommodation in Konik were temporarily used as additional reception facilities. However, these did not provide some basic services.

While Montenegro's capacity to handle asylum requests has been sufficient so far, it is now challenged by: (i) the growing number of asylum seekers and the extended length of their stays, sometimes due to lengthy appeal procedures; and (ii) the introduction of more demanding asylum procedures, aligned with the EU standards.

Montenegro must as a matter of priority open additional reception facilities that meet the required standards, including for minors and unaccompanied minors. It must increase the human resources on both reception and status determination services, and strengthen the capacity of the staff in all relevant administrations. To meet the challenges of an integrated and efficient asylum policy, inter-ministerial and inter-service coordination must be considerably improved.

### **Visa policy**

Further to the adoption of the Schengen action plan in February 2017, Montenegro continued to align its legislation with the EU *acquis* on visas.

Amendments to the Decree on the visa regime were adopted in March 2017, waiving short-stay visa requirements for stays of up to 90 days for nationals of seven Pacific nations, that are included in the EU visa-free list. Montenegro temporarily exempted nationals from Russia, Armenia, Kazakhstan and Georgia from short-term visa requirements during summer, although seasonal visa exemption measures are not in line with the EU *acquis*. Montenegro needs to align its visa policy progressively with the EU's. The software automating the visa issuing process was finalised. Under a pilot scheme, a few consular missions of Montenegro and the Ministry of Interior are now connected to the national visa information system. As of October 2016, 5 embassies of Montenegro can issue visa stickers. Only 12 visas were issued at the borders in 2017. These exceptions were in line with the *acquis*.

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

## **Schengen and external borders**

### Institutional set-up and legal alignment

Montenegro has some level of preparation on Schengen and external borders. The legislative framework requires further changes to bring it into line with the Schengen *acquis*, especially on border control and local border traffic arrangements.

The strategic framework is in place, with the 2014-2018 integrated border management strategy and the Schengen action plan.

The border police, a division of the police under the Ministry of the Interior, was reorganised into three regional branches and one national coordination centre. Inter-agency cooperation between the border police, the customs authorities and the Police Directorate of the Ministry of Interior continued to improve, including through mutual access to databases. In February 2017 the Police Directorate and other relevant administrative authorities signed a joint plan for preventing corruption at the border.

### Implementation and enforcement capacity

The border police lacks sufficient human resources. This is partially addressed in the integrated border management strategy, which focuses on reorganising the border police to use resources more efficiently, and on increasing training skills and analytical capacity. However, the shortage still needs to be addressed as a matter of priority.

Around 200 posts are still vacant in the border police, with an overall serious gender imbalance. Yet under the Schengen action plan, around 600 more border police officers would be needed. Shortcomings in the transparency and professionalism of the border police recruitment system persist and must be addressed by the announced police reform.

Montenegro's track record on detecting forged documents increased from 61 in 2016 to 137 in 2017, but remains low due to insufficient training and lack of proper devices. Reconstruction of some border crossing points to align them with European standards continued. More financial resources need to be devoted to modernising border infrastructure and to step up the surveillance of the green and blue borders (in particular electronic surveillance) and at border crossing points (in particular at the border with Albania). Cooperation at the sea border with Croatia, Albania and Italy also has to be improved.

Cooperation with neighbouring countries at technical level remains good. Border demarcation agreements are still to be concluded with Serbia and Croatia and an agreement is being negotiated with Albania. Montenegro has ratified the border demarcation agreement with Kosovo\*. In February 2018, the Presidents signed a common statement in which they invited the parliament of Kosovo to ratify the Agreement. Local border traffic agreements with Serbia and Bosnia and Herzegovina are still pending and the existing agreement with Croatia should be brought into line with the *acquis*. In 2017 Montenegro conducted 196 joint patrols with Albania, 156 with Serbia, 283 with Bosnia and Herzegovina, 73 with Kosovo and 11 with

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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.

Croatia. 211 cases of illegal entry were prevented. The Regional Centre for Police Cooperation in Trebinje is fully operational. In May 2017, the Ministries of Interior of Montenegro, Albania and Kosovo signed a joint protocol to establish a Joint Centre for Police Cooperation in Plav. Discussions on the joint demolition of alternative roads crossing the common borders between Montenegro and Serbia and Kosovo are still ongoing. Montenegro continuously cooperates with Europol, Interpol and the European Border and Coast Guard Agency on countering cross border criminal activities.

Regarding the fight against corruption at the border, while some preventive measures are in place, a track record of corruption detection, investigation and prosecution is yet to be established. The EU's Schengen Catalogue of recommendations and best practices for preventing corruption should be implemented, particularly the installation of cameras in first-line border police stations.

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

The institutional and legal set-up continued to be strengthened. As regards *judicial cooperation in criminal matters*, the agreement on cooperation between Montenegro and Eurojust entered into force in June. A Montenegrin liaison prosecutor started working in Eurojust in December. In 2017 Montenegro was involved in 4 Eurojust cases (against 2 in 2016), mainly regarding fraud, terrorism and money-laundering. The draft law on judicial cooperation in criminal matters with EU Member States, designed to align the domestic legislation with several *acquis* instruments, is still to be adopted.

As for *judicial cooperation in civil matters*, the 2007 Hague Convention on child support started being implemented on 1 January 2017. In October 2017, Montenegro signed the Hague Convention on Choice of Court Agreements.

The necessary staff increase in the area of judicial cooperation in civil and criminal matters has not yet taken place. Training of staff from the Ministry of Justice as well as of judges and prosecutors continued, but no formal training plan for judicial cooperation in criminal matters has been adopted yet.

The statistics on handling requests of judicial cooperation in criminal and civil matters continue to show some backlog, particularly with the neighbouring countries, but the backlog is being progressively addressed.

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

The legal, institutional and strategic frameworks are largely in place. Montenegro is implementing its 2013-2020 national drug strategy and action plan (in line with the EU Strategy and Action Plan), including by training of relevant staff. The close cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) continued. Montenegro's Forensics Centre cooperates with the police in detecting cocaine as an accredited laboratory. A national network of experts in relevant ministries is in place. Montenegro laid the foundation for a national early warning system on new psychoactive substances, but the system has to be further consolidated to meet the EMCDDA standards. The national focal point, located in the Ministry of Health, consists currently of only one person. More resources are needed to improve the work on drug monitoring and coordination of relevant administrations. Cooperation with Europol continues on new detected drugs and with civil society on the rehabilitation of drug addicts.



The country remains an entry point and transit country for drugs to western Europe. Although Montenegro is traditionally a small consumption market, a slight increase in cannabis consumption was reported due to the vicinity of Albania as a major producer, but also due to a modest local production. In 2017 a new record of drug seizures was made (2.65 tonnes), mainly herbal cannabis from Albania. Some 135 criminal charges were filed against 179 people. The anti-drug department of the police investigated a number of drug-related cases in 2017, including the use of special surveillance measures, and carried out a few long-lasting investigations as part of international cases, in a fruitful cooperation with third countries' police services.

Law-enforcement agencies need to improve their capacity to tackle complex international criminal drug-trafficking networks. There is still no solid track record of seizure and confiscation of the proceeds of drug-related crimes, or of financial investigations in this area. The anti-drug department of the police is still understaffed. The lack of secure storage for seized drugs and precursors prior to destruction remains a concern. An appropriate process for destroying precursors has yet to be set up. On drugs seizure, as required under the EU protocol, a single electronic database needs to be set up to collect, analyse and share all data on drugs seizure.

### **Customs cooperation**

The customs administration applies risk analysis and continued to improve IT support for the risk management system. It has now investigative powers and cooperates with law-enforcement agencies under agreements and memoranda on mutual cooperation and exchange of information. International cooperation operates on the basis of 30 signed bilateral agreements in customs matters, including 12 with EU Member States. Montenegrin customs participated in a number of joint international operations to prevent illicit trade in psychoactive substances, drugs and drug precursors, fire arms, cultural goods, oil derivatives, counterfeit goods and cigarettes. A major seizure of cigarettes worth EUR 4 million took place in March 2017. Illicit tobacco trade remains a concern, and the customs administration's prevention capacity must be strengthened.

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

Montenegro has taken steps to align its legislation with the *acquis* on the suppression of counterfeit currencies and the competent authorities and procedures for dealing with counterfeit money are established. Montenegro ratified the International Convention for the Suppression of Counterfeiting of Currencies. (*see Chapter 32 Financial control*)

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

Key economic figures	2015	2016	2017
<b>Gross domestic product per capita</b> (% of EU28 in PPS)	42	45	N/A
<b>GDP growth (%)</b>	3.4	2.9	4.4*
<b>Unemployment rate</b> (female; male) (%)	17.8 (18.0; 17.6)	18.0 (18.5; 17.4)	16.0* (15.4; 16.8)
<b>Economic activity rate for persons aged 15–64: proportion of the population aged 15–64 that is economically active</b> (female; male) (%)	62.6 (68.3; 56.9)	63.4 (70.2; 56.6)	64.0* (70.8; 57.2)
<b>Current account balance</b> (% of GDP)	-13.2	-18.1	-19.0
<b>Net Foreign direct investment (FDI)</b> (% of GDP)	16.9	9.4	11.3

Source: Monstat. \* Latest available data; average for the period QI-QIII 2017.

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

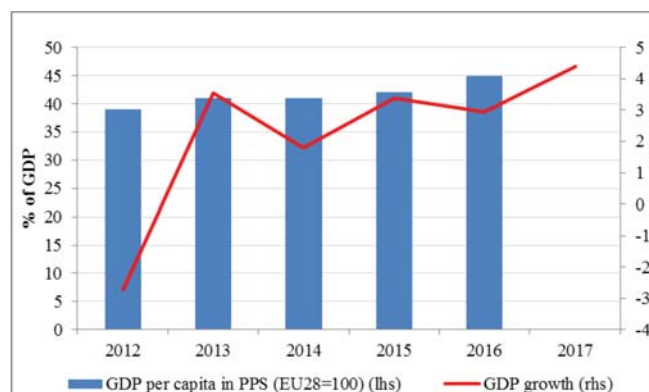
Montenegro has made some progress and is moderately prepared in developing a functioning market economy. Macroeconomic and fiscal stability were strengthened but further efforts are required to address persistent challenges, especially the high public debt burden. The economy has been growing uninterruptedly since 2013 amidst low or moderate inflation. The financial sector has improved its solvency and liquidity. However, the export base needs to improve in scope and in quality to reduce the trade deficit. Rule of law weaknesses, including unfair competition from the informal economy, negatively impact on the business environment. The labour market faces structural challenges, reflected in low participation and high unemployment rates.

In order to support long-term growth, Montenegro should pay particular attention to:

- continue fiscal consolidation efforts to strengthen the sustainability of public finances;
- facilitate the resolution of non-performing loans (NPLs);
- improve labour market flexibility to boost participation rates and reduce informality.

## Economic governance

Figure 1 Montenegro convergence



Source: Eurostat, national sources

deterioration of macroeconomic stability. The policy guidance jointly adopted in May 2017 has been partially implemented.

### Macroeconomic stability

**The pace of economic growth continues to strengthen.** From 2012, when the last recession episode took place, to 2016, the economy recorded annual average growth of 2.9 %. GDP accelerated further in the first three quarters of 2017, registering an average expansion of 4.4 % y-o-y, driven by private consumption and investment. Household consumption increased partly due to a record-breaking tourist season boosting domestic demand and employment. Investment expanded by 10.5 % y-o-y until September 2017, driven by public capital spending on the highway project and on private investment in tourism and energy. After several years containing maintenance costs, government consumption started to grow in 2017. Exports have been supported by a boom in tourism. However, growing domestic demand meant that growth in imports also matched the pace of export growth, leading to a negative contribution from net exports. Five years of continuous growth resulted in some further economic convergence with the EU. In 2016, Montenegro's GDP per capita expressed in purchasing power standards rose to 45 % of the EU average, up from 39 % in 2012.

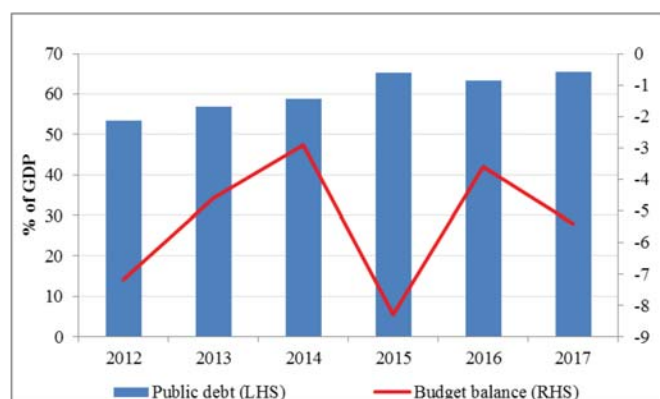
**The trade deficit continues to worsen, despite strong exports performance.** In 2017, the merchandise trade deficit further increased to 44.2 % of GDP, up from 41.9 % a year earlier. As a result, the current account deficit deepened to 19.0 % of GDP, up from 18.1 % a year earlier, in spite of the improvement of the services account benefitting from the strong tourism season. Improvements in merchandise exports have been largely related to crude (and low value added) material, while project-related purchases of construction material and equipment, but also higher oil prices, maintained upward pressure on imports, surging by 22 % y-o-y in the last quarter of 2017. In 2017, net FDI inflows totalled 11.3 % of GDP, compared to 9.4 % in 2016, covering 59.3 % of the current account deficit; the rest of the external gap being financed by loans (31.7 %) and portfolio investments (3.2 %).

**Inflation increased, driven by rising international commodity prices.** Inflation remained historically low in the period 2013-2016, with average annual rates of below 2 %. However, since the end of 2016, import prices grew faster as the cost of petroleum products kept rising over the year. Meanwhile, domestic price pressures have remained modest as average nominal wage growth has lingered markedly below inflation in the last five years with the exception of

**The long-term orientation of economic policy needs to be strengthened further.** Unaffordable public spending increases in the run-up to the last parliamentary elections in October 2016 required severe corrective measures. The new government's frontloaded fiscal consolidation policy and reforms helped redressing some of the negative impact on public finances and labour market participation, in particular of women. Efforts should be maintained to avoid a reversal of consolidation policies and a

2016. Overall, the harmonised index of consumer prices grew by 2.8 % y-o-y in 2017, compared to 0.7 % a year before. Higher value added taxes and an increase in regulated electricity prices are set to generate additional inflationary pressures in 2018.

Figure 2 Montenegro fiscal developments



Source: Eurostat, national sources

**The new government introduced a more stringent fiscal policy to address debt-related concerns.** Along with the 2017 budget, a plan was adopted for redressing public finances at the end of 2016. This plan was complemented in July 2017 with a relatively more ambitious medium-term fiscal strategy, including further increase of excises and VAT, adjusting social benefits, introducing additional cuts in public sector wages, and introducing a new excise on coal. These corrective measures, whose combined fiscal impact is estimated at 3.6 % of

GDP over 4 years, are expected to bring the budget close to balance in 2019 and to lower the public debt ratio as of 2020. Budget performance in 2017 reflects a threefold surge in capital spending over the year, totalling 6.1 % of GDP, along with improved performance of tax revenue collection, rising by 20 % y-o-y, driven by VAT, excises and social security contributions. Overall, in 2017, the central government accumulated a deficit of 5.6 % of GDP compared with 3.4 % in 2016.

**Public debt growth is driven to a large extent by financing the main section of the Bar-Boljare highway.** In 2016, a slowdown of the highway works plus an upwards revision of GDP resulted in only a slight increase of the public debt to 64.4 % of GDP. After resuming the works on the highway in 2017 (worth some 4.6 % of GDP), preliminary estimates from the Ministry of Finance indicate public debt totalled 66 % of GDP at the end of the year. State guarantees accounts for some additional 10.9 % of GDP. Overall, given the high levels of public debt, its repayment profile and the tightening of global financial conditions, it is essential to rebalance the budget structure towards growth-enhancing spending and to continue fiscal consolidation efforts.

**Given the constraints stemming from Montenegro's unilateral use of the euro, a restrictive fiscal stance appears to be justified to rebuild buffers and reduce debt-related vulnerabilities during the current cyclical upswing.** The plan for improving public finances adopted at the end of 2016 and the medium-term fiscal strategy of July 2017 represent two important steps to address a very high and increasing debt level. The continuation of fiscal consolidation remains essential for the sustainability of public finances and for achieving gradual compliance with Montenegro's fiscal rules, by adopting additional measures if needed.

## Functioning of product markets

### *Business environment*

**There was no significant improvement in the business environment.** In accordance with the public administration reform strategy 2016-2020, the number of electronic services

offered via the e-Government portal increased. It is also planned to optimise the capacity of the public services. However, the poor implementation of laws and delays in obtaining information and services need to be addressed. The introduction of electronic cadastral services to improve data updating is still pending. A new law on spatial planning and construction was adopted in October 2017, albeit implementing legislation is yet to be adopted. Moreover, challenges remain in the construction industry, notably high permit costs, and lengthy procedures for paying taxes and property registration. Despite these barriers, the number of companies and entrepreneurs increased by 3.6 % y-o-y in 2017. Market exit procedures seem broadly efficient, with 90 % of bankruptcy procedures taking up to six months, and only 1 % of cases requiring longer than one year. Indebtedness and liquidity constraints affect the corporate sector. At the end of December 2017, there were 16,220 companies and entrepreneurs (including inactive ones) with frozen bank accounts due to unpaid claims.

**Despite some progress with legal proceedings, a consistent and efficient application of legislation is still necessary to ensure legal certainty and predictability.** The bailiff system continues making progress with the introduction of a centralised case management system. In the period from October 2015 to December 2016, 50.9 % of the total enforcement cases were solved, of which 89.6 % through the complete collection of claims. Alternative dispute resolution remains low, with only 161 cases referred for mediation in 2017 compared to 429 in 2016. Weaknesses in the area of rule of law negatively impact on the business environment. Investors complain about the inconsistency of case law, non-enforcement of court orders and interferences with property rights of investors. Unfair competition from the informal economy is also considered a severe obstacle.

#### *State influence on product markets*

**State aid allocation from the budget is declining but the regime of tax exemptions and other types of support require an in-depth review of their economic impact.** In the first eleven months of 2017, budget allocation for subsidies declined to 0.47 % of GDP. The government did not extend any new state guarantees in 2016, and just two new guarantees in the first nine months of 2017, totalling 0.6 % of GDP. However, there are concerns about continuing support to the national airline (*See more under Chapter 8*) and the need for a comprehensive restructuring of the company.

#### *Privatisation and restructuring*

**The privatisation process advanced further notwithstanding some setbacks.** State ownership in the economy is limited a few companies. However, information on the size, composition and performance for the entire SOE sector is difficult to obtain. In 2017, the bankrupt textile producer Vunko was sold, and a lease granted to an international hotel operator to upgrade and manage two state-owned hotels. Negotiations for selling the shipyard in Bijela are well advanced. However, some privatisations stalled or reversed. In April 2017, the government halted the negotiations on the sale of the Port of Bar and the rail company Montecargo, arguing low price and unclear plans from the bidder. Unless a new investor is found, state participation in the economy is set to increase (entailing some contingent fiscal risks) as a result of the withdrawal of a major investor's 41.7 % stake in the electric power company EPCG.



## Functioning of the financial market

### *Financial stability*

**The banking system as a whole improved its solvency and liquidity position.** There are fifteen banks in Montenegro, with foreign-owned banks accounting for 80.4 % of total capital, largely dominating the sector. Considering the relatively large number of entities and the small size of the economy, some mergers and acquisitions could be expected in the medium term. In 2017, the aggregated capital adequacy ratio was 16.4 %, well above the regulatory minimum of 10 %. Banks' profitability remains low albeit improving, with return on assets (ROA) and return on equity (ROE) of 0.9 % and 6.9 % respectively. The ratio of NPLs dropped to 7.3 % of total loans at the end of 2017 as a result of sell-offs of impaired assets to factoring companies and, more recently, new regulation facilitating loan restructuring and the clearing of banks' balance sheets. However, large disparities still remain across lenders, with the smaller non-EU and domestic banks presenting a significantly weaker position, calling for the reinforcement of the banking supervision framework and carrying out independent asset quality reviews for all banks.

### *Access to finance*

**Corporate sector borrowing remains below pre-crisis levels.** Lending increased by 11.8 % y-o-y in 2017, but credit to privately-owned companies remained subdued, recording average 3.2 % annual growth in 2017. This contrasts with the household sector, which recorded a much stronger (11.1 % y-o-y) growth in the same period. The low credit growth to corporates is the result of risk aversion among banks driven –among others– by the poor investment readiness of firms, the lack of standardized financial reporting, low effectiveness of the judicial system, and credit registry data gaps. The reduction of non-performing loans was accompanied by a further lowering of financing costs for domestic companies. In December 2017, the weighted average effective interest rate amounted to 5.70 %, down from 6.38 % a year earlier.

**The non-bank financial sector is underdeveloped.** The stock market turnover is very low, at just 1.0 % of GDP and most of the operations relate to the secondary market. The insurance market is also modest, with gross premiums totalling some 1.6 % of GDP in 2017. The size of the leasing market remained marginal, accounting for 0.4 % of GDP in the first three quarter of 2017. Total assets and liabilities of micro-financial institutions amounted to 1.4 % of GDP at the end of October 2017. The lending capacity of the state-run Investment Development Fund (IDF) reached 4.2 % of GDP in 2017, comparable to a medium-sized bank.

## Functioning of the labour market

**Economic growth and the rollback of some unaffordable social benefits are slowly improving labour market trends.** In the third quarter of 2017, the unemployment rate according to the labour force survey declined to 15.1 % from 17.1 % a year before, while the employment rate increased to 55.6 % from 51.4 % a year earlier. By gender, the employment rate of men reached 62.1 % compared to 49.1 % for women. Youth unemployment is high at 27.5 %, although declining from 33.5 % a year before. The long-term unemployment rate was broadly unchanged at 73.4 %. Data from the Employment Agency presents a more negative picture: at the end of 2017, employment dropped by 7.6 % y-o-y while the unemployment rate reached 22.2 %, up from 21.1 % a year before. Discrepancies could be explained to some extent by the high proportion of informal employment, but also, by the revision of the social

programme for mothers of three children or more, after which several thousand mothers returned from a pensioner status back to the labour market as unemployed.

**Fear of losing social protection benefits hinders the transition to formal work.** The high marginal effective tax rate on earnings below social assistance levels combined with ineffective labour inspections presents a disincentive for people to transit from informal to formal sector jobs, including part-time and seasonal jobs, which are filled to a large extent by workers from neighbouring countries. Since May 2017, real wages have declined due to the acceleration of inflation and the waning of the growth effects from the previous year's hike of public sector salaries. In consequence, the average gross wage contracted by 0.8 % y-o-y in real terms in 2017.

Figure 2 Unemployment in Montenegro (% of Active population)

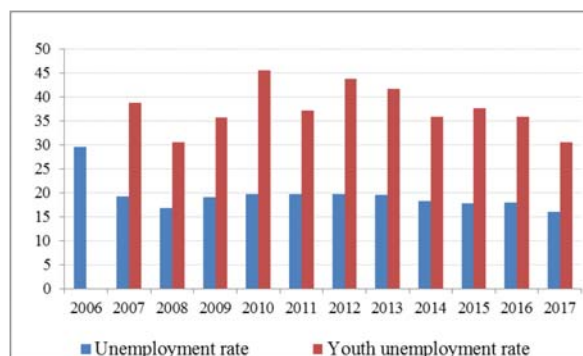
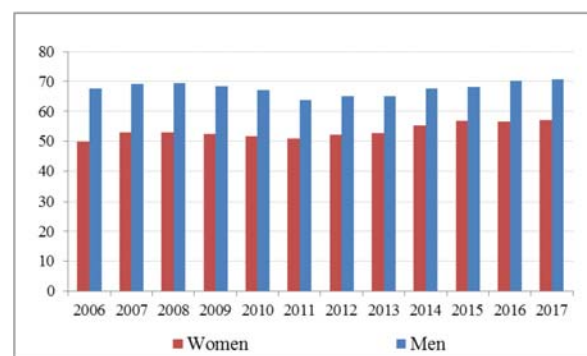


Figure 3 Participation rate in Montenegro (% of Labour Force)



Source: Eurostat, national sources

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

Montenegro has made **some progress** and is **moderately prepared** in terms of capacity to cope with competitive pressure and market forces within the Union. The construction of key infrastructure in a number of areas as well as developing human capital set the basis for improved competitiveness. Education reform is ongoing, but more efforts are needed to address the skills mismatch. SMEs remain confronted with numerous challenges, such as access to finance or regulatory complexity. Further efforts are still required to improve the overall export performance of local companies.

In order to support long-term growth, Montenegro should pay particular attention to:

- continue the development of research and innovation capacities to facilitate synergies between academic institutions and enterprises;
- develop infrastructure in a fiscally responsible manner, respecting competition and public procurement rules;
- continue to address the mismatch between education outcomes and labour market needs.

#### Education and innovation

**Investment in research and development remains modest.** Montenegro has been participating in numerous international programmes and cooperation projects (*See Chapter*

25: *Science and Research*). National programmes are largely funded by the government, while private sector funding remains marginal. Several institutional frameworks for science and development linking the business and academic community are being implemented, namely the BIO-ICT Centre of Excellence and the Innovative Entrepreneurship Centre “Tehnopolis”. Activities are also underway to establish a Science and Technological Park within the campus of the University of Montenegro in Podgorica.

**Montenegro's education system is undergoing a broad reform to improve its quality.** A legislative package was adopted in 2017 to facilitate that practical knowledge and skills are better developed at all levels. It also established, among other measures (*see Chapter 26: Education and Culture*), an Agency for the Control and Quality Assurance in Higher Education and introduced financial incentives to promote excellence of teachers and students.

**Efforts continued to modernise secondary vocational education.** To facilitate school to work transition, amendments to the law on vocational education were adopted in July 2017, introducing the so-called 'dual education system', which requires practical training with employers. A subsequent information campaign has contributed to a 15 % higher enrolment under the new system for the 2017/2018 school year, whereby 264 students signed contracts with 97 employers. However, the quality of vocational education and training needs to be improved.

#### Physical capital and quality of infrastructure

**Insufficient and inadequate infrastructure remains a challenge.** The quality of the road network is below European standards. Reconstruction and modernisation of the road network is advancing according to plan, including the construction of the priority section of the highway. The railway system is inexpensive; however, services are quite limited, slow and outdated. Several track sections as well as signalling are being upgraded. The airports also require higher capacity to cater for the fast growing number of passengers. Modernisation of the port of Bar is underway, in particular in the container terminal. However, the intermodal connection with the railways requires a major overhaul. The electricity mix is overly reliant on hydropower and thermal sources, but insufficient to cover the needs of the country. Diversification advanced with the construction of the first wind energy plant, which became operational in November 2017. The electricity transmission corridor towards Italy is under construction. A number of waste management plants and water distribution and treatment systems are currently under construction.

**The Strategy for the development of the information society is ambitious.** The goal is to enable basic broadband access to all the population already in 2018, and with high speed broadband access (30 Mbit/s or more) in 2020. The electronic communication infrastructure is used by 11 operators. However, low investment in fixed-line broadband infrastructure has thus far resulted in the slowest broadband connections in the region.

#### Sectoral and enterprise structures

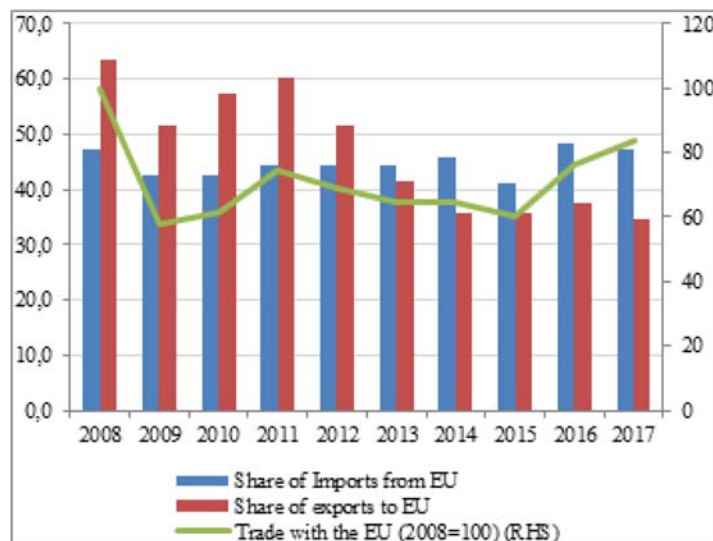
**Little change was recorded in the structure of the economy.** Services remain the predominant engine of the economy, with 71.8 % of total gross value added in 2016, compared to 11.9 % for the industrial sector, 10.9 % for agriculture, and 5.4 % for construction. The predominance of services is even more pronounced when observing employment by sectors, accounting for 84.8 % of the jobs, with total employment in industry and agriculture far behind with 7.8 % and 7.4 % respectively.

**SMEs are the backbone of Montenegro's economy.** Nearly 70 % of value added and more than three quarters of national employment is generated by SMEs, compared with an average of 57 % and two thirds respectively in the EU. However, SMEs are confronted with numerous challenges, like the complexity of business-related legislation, particularly at local level, or the lack of access to affordable finance. In addition, these firms remain focused on the domestic market and need to become more regionally competitive to strengthen their impact on the national economy. The Investment and Development Fund channels the largest portion of public sector financial support to SMEs through credit lines, financing and factoring services.

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

**The share of trade with the EU and CEFTA countries is high but declining, as exchanges with other countries, like China and Turkey, increase.** In 2017, trade with the EU accounted for 34.7 % of Montenegro's goods exports and 47.4 % of its merchandise imports. Trade with CEFTA represented 41.1 % of exports and 31.2 % of imports. The development of a Regional Economic Area based on EU rules and standards, to which all Western Balkan economies have committed, has the potential to generate untapped growth. Financial integration with the EU is also substantial, accounting for 88.4 % of foreign share of capital in local banks and 38.7 % of total FDI inflows in 2017.

Figure 5 Montenegro trade integration with the EU



Source: Eurostat, national sources

**moderate import prices and low labour costs.** Labour costs have declined in real terms each year since 2011, except for a 3.4 % y-o-y increase in 2016. Consequently, domestic producer prices remained flat or recorded some marginal annual increase of less than 0.3 % in each of the last three years, preserving local companies' competitiveness.

**Montenegro needs to improve its export performance.** In 2016, the total value of traded goods and services totalled 103.4 % of GDP, with exports representing only 40.5 % of GDP. The country has a small manufacturing base concentrated on commodities with low value-added. However, exports of services are growing fast thanks to important investment on high-end tourism facilities. Imports are largely concentrated on energy and food, two sectors which offer significant potential for import substitution.

**Price competitiveness has been broadly preserved due to**

#### 4. 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. Montenegro needs to align with the EU common positions on the integrity of the Rome Statute or with the related EU guiding principles on bilateral immunity agreements.

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. Under the Regional Housing Programme construction/purchase of apartments and housing units has progressed well. The application processes for beneficiary selection have demonstrated high needs and interest for housing solutions throughout the country.

The unresolved fate of missing persons resulting from the conflicts of the 1990s remains a humanitarian concern in the Western Balkans. The number of cases in Montenegro, currently at 57, is low, but all efforts should be made to ensure 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: South East Europe Cooperation Process (SEECF), the Regional Cooperation Council, CEFTA, the Western Balkans Six, the Energy Community Treaty, the European Common Aviation Area Agreement, the Central European Initiative (CEI), the Regional Initiative for Migration and Asylum (MARRI), RECOM, the "*Brdo-Brijuni process*", the Adriatic-Ionian Initiative, European Union macro-regional Strategies for the Danube Region (EUSDR) and the Adriatic and Ionian Region (EUSAIR), and the Igman Initiative. In addition, Montenegro took important commitments at the Western Balkans Summit in Trieste to implement a Multiannual Action Plan (MAP) for the development of a Regional Economic Area (REA) in the Western Balkans and swiftly appointed a national REA coordinator. The implementation of the plan will strengthen CEFTA to allow further economic integration within the region, based on EU rules and standards.

The impetus given through the 'Berlin process' and the Western Balkans Six initiative, notably regarding the EU's connectivity agenda, has continued to foster increased regional cooperation. Building on the results of previous Summits, the July 2017 Trieste summit saw further advances on the connectivity agenda through the signature of the Transport Community Treaty. Cooperation continued also in previously established areas, notably through the agreement on the action plan for a Regional Economic Area and the opening of the Regional Youth Cooperation Office in Tirana in July. With regard to the connectivity agenda, Montenegro still needs to finalise with Albania the modus operandi for the joint border railway station in Tuzi, transpose the road Intelligent Transport Systems (ITS) directive and adopt EU technical specifications for the European Rail Traffic Management System (ERTMS).



Montenegro remained constructively committed to **bilateral relations** with other enlargement countries and neighbouring EU Member States. Montenegro is encouraged to sign a bilateral convention on regional cooperation under Article 15 of the Stabilisation and Association Agreement (SAA) with all partners with an SAA in force.

Relations with **Albania** continue to be good. The Prime Minister of Albania visited Montenegro in April 2017. In December 2017 Montenegro's President visited Albania. A protocol was signed in May 2017 between the Ministries of Interiors of Albania, Kosovo and Montenegro on establishing the joint centre for police cooperation in Plav. Montenegro also cooperates with Albania under the Albania-Montenegro-Croatia Trilateral, established in 2017, as part of the Adriatic-Ionian dialogue. Two trilateral meetings took place during the reporting period.

A cooperation agreement between the government of Montenegro and the Council of Ministers of **Bosnia and Herzegovina on the process of EU accession** came into force in March 2017 and President Filip Vujanovic paid an official visit to Bosnia and Herzegovina. An agreement on shared location of diplomatic and consular representations was signed in July.

Relations between Montenegro and **Kosovo** remained good. In February 2017, Kosovo adopted a strategy for the affirmation and integration of the Montenegrin minority. The agreement on border/boundary demarcation was ratified by the Kosovo Assembly in March 2018. In February 2018 both Presidents signed a common statement in which they agreed that once the border/boundary demarcation agreement enters into force, a bilateral working group will be established to identify and address potential disputes on the marking of the border/boundary in specific sectors.

Relations with **the former Yugoslav Republic of Macedonia** remained good. The President of the Parliament visited Montenegro and the Prime Minister, Foreign Minister and Minister of Defence of Montenegro visited Skopje during the reporting period.

Relations with **Serbia** remained good. The joint committee of the governments of Montenegro and Serbia in the context of the EU accession met for the second time in November 2016. The Montenegrin Prime Minister visited Belgrade in February 2017 as his first bilateral visit following his election. In July 2017, the Serbian Prime Minister took part in an international meeting in Podgorica and met with her Montenegrin counterpart. Serbian Minister of Foreign Affairs visited Podgorica in January 2018. There have been no developments on issues related to citizenship rights in the two countries. The demarcation of borders is still pending.

A plan for bilateral cooperation on defence for 2017 was signed with **Turkey** in September 2017. The readmission agreement between the two countries entered into force in December 2016.

Joint work on finding a solution for the border demarcation between Montenegro and **Croatia** is ongoing. A plan of bilateral cooperation on defence for 2017 was signed in August 2017. The second session of the joint committee aimed at implementing the agreement on mutual protection of minorities was held in May 2017.

A plan for bilateral cooperation on defence was signed in February 2017 with **Italy**. In September 2017, the government made a decision to publish the agreement between the two governments on mutual exchange and protection of confidential data. A protocol on

cooperation between the Montenegrin parliamentary committee on European Integration and the committee for European Union policies of the Italian Senate was signed in March 2017.

## 5. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

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

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

Montenegro is **moderately prepared** in the area of free movement of goods. **Some progress** was made in this area during the reporting period. However the recommendations of the 2016 report, both on the ensuring adequate human and financial resources and on alignment, have not been adequately addressed, and are therefore reiterated below in an updated form.

In the coming year, Montenegro should in particular:

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

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

#### General principles

Regarding the **general principles**, Montenegro's legal framework for the free movement of goods is largely aligned to the EU *acquis*. On measures that impact on the **production, distribution and marketing of industrial products** only some regarding medical products and tobacco remain. Montenegro is implementing its 2014-2018 **Strategy and action plan for alignment** to the EU *acquis* in this chapter, though it plans to revise and extend the action plan due to changes to the EU *acquis* and delays in alignment.

#### Non-harmonised area

In its Action Plan for compliance with **Articles 34-36 of the Treaty for the European Union** (TFEU) Montenegro identified all measures that could interfere with the free movement of goods and sets out how and by when these will be addressed. In implementing this it repealed 30 legislative acts in the area of construction products in the reporting period.

#### Harmonised area: quality infrastructure

The Office for Quality Infrastructure was established in October 2016. It coordinates the work related to this chapter, including alignment to the EU *acquis* regarding the horizontal quality infrastructure and the technical requirements for products. In June 2017, the government adopted implementing legislation to increase the number of **market surveillance** inspectors in line with Montenegro's Accession Programme to the European Union 2017-2018.

In 2017 Montenegro adopted an action plan to implement accreditation development strategy and an action plan for the implementation of the **standardisation** development strategy. The Institute for Standardisation of Montenegro (ISME) adopted a total of 2 300 Montenegrin standards (MEST) - designed to be fully harmonised with European and international standards - in the reporting period, bringing the total to 17 102 MEST.

A number of pieces of implementing legislation were adopted in the field of **metrology**. However, the capacity of the Metrology Bureau needs reinforcing; it currently has 40 staff out of the 52 foreseen.

In **market surveillance**, at the end of 2017 a new law on general product safety was adopted which is designed to be aligned with the EU *acquis*. A total of 1 515 inspection controls were carried out in the Montenegrin market, of which 425 inspections were in proactive surveillance and the rest in reactive surveillance. In the area of **product safety**, some 210 types of hazardous products were found (total quantity of 15 042 items). Of these, 105 products (3 193 items) were permanently taken off the market, 63 products (707 items) were returned to the supplier/distributor, and 16 types of product (2 375 items) were destroyed (see also Chapter 28).

On **accreditation** in January 2017, the Accreditation Body of Montenegro (ATCG) accredited 4 new **conformity assessment** bodies - 3 management system certification bodies and 1 testing laboratory. In the same period, a single conformity assessment body lost the status of accredited organisation. As of February 2018, 35 bodies have been accredited by the ATCG, of which 22 are testing laboratories, 2 are calibration laboratories, 6 are control bodies, 1 is a product certification body and 4 are management system certification bodies. However the inadequate resources of the Accreditation Body of Montenegro hamper the implementation of its current strategy and action plan for accreditation.

#### Harmonised area: sectoral legislation

Regarding the ‘**New and Global Approach**’ **product legislation** in the reporting period Montenegro adopted legislation designed to align with the EU *acquis* in several sectors including eco-design, radio equipment, non-automatic weights, metrology and measuring devices, simple pressure vessels, low voltage electrical equipment, and machinery. Further legislation was adopted designed to increase alignment on construction products and on energy efficiency. Implementing legislation was also adopted in the period designed to align to the EU *acquis* on recreational boats and personal watercraft vessels and to increase the degree of alignment with the EU *acquis* on explosives for civil use and on pyrotechnic products. However, the implementation of aligned legislation is not always fully ensured due to quality infrastructure capacity issues.

On ‘**Old Approach**’ **product legislation**, Montenegro adopted implementing legislation in the reporting period designed to increase alignment to the EU *acquis* on pre-packed products and several sub-sectors of fertilisers. Further steps have been taken with the aim to move towards alignment with REACH and the EU *acquis* on chemicals, including by adopting a new law on chemicals in July 2017. Several pieces of implementing legislation were also adopted, including some designed to align to the EU *acquis* on the export and import of hazardous chemicals and to some of the EU *acquis* on classification, packaging and labelling of chemicals, and biocides. Montenegro also adopted legislation designed to be aligned to the EU *acquis* on Medicinal Product Pricing. However, the administrative capacity necessary to implement REACH needs strengthening.

On **drug precursors**, national legislation is partly aligned to the EU *acquis*. **Good laboratory practices** are aligned to the *acquis* on industrial chemicals.

On **procedural measures**, on **firearms** since the entry into force of the law on weapons in March 2015, 3 674 weapons have been registered. 10 095 weapon certificates were issued in the reporting period. 4 412 firearms, 833 weapons, 61 876 pieces of ammunition and 246

explosive mines have been destroyed since 2014. On **defence products & defence procurement** amendments to the public procurement law, which entered into force in June 2016, were partly aligned to the EU *acquis* on defence and security procurement. However further amendments adopted in June 2017 removed these elements, so it is no longer aligned (see Chapter 5 – Public procurement).

## 5.2. Chapter 2: Freedom of movement for workers

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

Montenegro has **some level of preparation** in this area. **Some progress** was made on freedom of movement for workers.

In the coming year, Montenegro should, in particular:

→ strengthen efforts to prepare for the coordination of social security systems ensuring non-discrimination.

On **access to the labour market**, the law on foreigners, which governs the entry, stay and work of foreign citizens, is in force. Alignment with the *acquis* is planned through a revised law on foreigners, which will be applied as of the date of accession.

Some progress has been made on preparations to join EURES (the European network of employment services). The Department for **EURES** and International Employment Mediation of the Employment Agency increased its staff by one EURES adviser, but still needs to hire one more. The Employment Agency also signed a memorandum of cooperation on recruitment with the Slovak Employment Agency in January 2017.

On the **coordination of social security systems**, development of bilateral agreements on social insurance continued. Montenegro ratified further bilateral agreements with Bulgaria in October 2016 and Slovakia in December 2016. A bilateral agreement on social insurance with Romania is still to be adopted, while negotiations are ongoing with Serbia on amendments to the current bilateral agreement, as well as with Bosnia and Herzegovina. The administrative capacity of the institutions responsible for social security systems needs to be strengthened.

The **European Health Insurance Card** is recognised under the Law on health insurance. However the decision on its future introduction is pending on the analysis of its impact on the state budget, which is yet to be delivered.

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

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

Montenegro remains **moderately prepared** in these fields. **Some progress** was made on the right of establishment and freedom to provide services.

In the coming year, Montenegro should, in particular:

→ step up efforts to align its legislation on the mutual recognition of professional qualifications with the *acquis* and with the Services Directive.

On the **right of establishment**, activities on electronic company registration remain stalled, including its extension to all regional tax administration offices.

On the **freedom to provide cross-border services**, preparations for alignment with the Services Directive continued. The 2015 report on the implementation of the action plan for the alignment with the Services Directive was adopted in September 2016, and the 2016 report was adopted in November 2017. The framework law on services was adopted in October 2017. The Framework Law sets the legal basis for the establishment of the point of single contact.

On **postal services**, the rulebook on postal services, as provided for under the amended Law on postal services, was adopted in June 2017, further aligning national legislation with the *acquis*. Following the discontinuation of the Ministry for Telecommunications and Information Society, the Department of Postal Services, which is an integral part of the Directorate for Electronic Communications, Postal Services and Radio Spectrum, became part of the Ministry of Economy.

On **mutual recognition of professional qualifications**, the law on the recognition of foreign qualifications for regulated professions, provided for under the national plan on developing qualifications for regulated professions still needs to be adopted. After accreditation of the academic study programme for architecture at the end of 2015, the certificate for accreditation was issued for study programmes in medicine, pharmacy, dentistry and higher medical schools in May 2017. Work continued to prepare the list of regulated professions.

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

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

Montenegro is **moderately prepared** in this area. **Some progress** was made on payment systems as well as in the fight against money laundering.

In the coming year, Montenegro should in particular:

→ fully align with the EU *acquis* on payment systems;

→ further align its legislation with the latest *acquis* on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, increase institutional capacity to perform checks on all reporting entities, enhance cooperation between all stakeholders and reporting;

→ further strengthen the legal framework to address the deficiencies identified in the MONEYVAL Report.

On **capital movements and payments**, the law on current and capital operations with foreign countries was amended in October 2017, to further align it with the EU *acquis*.

Some progress was made on **payment systems**. To ensure further alignment with the *acquis*, the Central Bank of Montenegro adopted amendments to the Decision on the structure, conditions and manner of opening and closing of transaction accounts. The number of registered payment institutions' agents reached 23.

On the fight against **money laundering**, Montenegro adopted a number of laws and amendments to existing laws. The following laws were amended: (i) the Law on the Basics of the Intelligence Security Sector of Montenegro; (ii) the Law on International Restrictive Measures; (iii) the Criminal Code; (iv) the Law on Misdemeanours. However, the legal framework on data retention and the sanctions system are still not compatible with the EU



acquis relating to money laundering and countering terrorist financing. Amendments to the Law on the prevention of money laundering and terrorism financing are still to be adopted. These also aim to ensure further harmonisation with the newly adopted FAFT standards.

The strategic framework is in place, consisting of: (i) the 2015-2018 strategy for the prevention and suppression of terrorism, money laundering and terrorist financing; and (ii) the strategy's accompanying action plan. A new action plan covering 2017 and 2018 was adopted in May 2017.

Montenegro has increased its institutional capacity to perform checks on all reporting entities regarding the prevention of money laundering. Since October 2016, the Central Bank of Montenegro has performed 10 checks of banks and 2 checks of microcredit institutions in order to verify that their operations comply with the regulations on the prevention of money laundering and terrorism financing. The Administration for Prevention of Money Laundering and Financing Terrorism carried out 87 checks of taxpayers, identified 11 suspicious transactions, and forwarded 69 notifications to other competent state bodies (*see also Chapter 24*).

## 5.5. Chapter 5: Public procurement

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

Montenegro remains **moderately prepared** on public procurement, which is an area particularly vulnerable to corruption. The June 2017 amendments to the Law on public procurement constitute **backsliding** in terms of legal alignment.

In the coming year Montenegro should in particular:

- adopt legislation that is aligned with the 2014 EU Procurement Directives, including on concessions;
- prepare a detailed and comprehensive plan for the roll-out of e-procurement;
- improve the functioning of the remedies system, including its coverage of low-value procurements, concessions, and defence procurement, and improve the administrative capacity and IT infrastructure of the State Commission for the Control of Public Procurement.

### Institutional set-up and legal alignment

The institutional and **legal framework** on public procurement is broadly aligned with the *acquis*, apart from concessions, where the preparation of an *acquis*-compliant law has been significantly delayed.

Several of the amendments to the Law on public procurement, adopted in June 2017, have reduced the level of compliance with EU rules. Prepared by an ad-hoc task force, and without public consultation, the amended law no longer applies to low-value procurement and procurements in the area of defence and security. The changes also introduced several new exemptions that are not in the EU *acquis*.

Montenegro needs to ensure that any international bilateral agreement, including for large infrastructure projects, 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 World Trade Organisation Government Procurement Agreement.

While the implementation of the 2016-2020 **strategy** on public procurement is ongoing, several activities are delayed. Moreover, the strategy does not cover concessions in detail and lacks information about financial planning and resource allocation.

#### Implementation and enforcement capacity

Montenegro's **public procurement market** corresponded to approximately 10 % of GDP in 2017, based on preliminary data, compared with 11.8 % in the previous 2 years.

Contracting authorities' **capacity to manage public procurement processes** continues to improve gradually, but is hampered by the ad-hoc changes to the public procurement law. Procurement planning needs to be more realistically aligned with the allocated resources. Moreover, public procurement still suffers from an overly formalistic approach and the prevalence of price as the only award criterion. A decree adopted in autumn 2017 envisages the use of centralised purchasing for certain standard procurements. This could lead to savings and efficiency gains; however, the decree is not yet implemented. Framework contracts are not widely used.

**Monitoring** of contract awards and contract implementation is hindered by the public inspection service's insufficient capacity to perform its tasks effectively. In addition, better internal auditing within contracting authorities is required to improve monitoring and verification of contract implementation (see also *Chapter 32 — Financial control*).

Montenegro urgently requires improvement of **data management systems** to trace the complete procurement cycle and make the system more user-friendly. With this in mind, work on development of a full e-procurement system is foreseen to begin during 2018.

The Public Procurement Administration (PPA)'s capacity appears insufficient to implement the reforms needed to further improve the performance of the public procurement system effectively and in a timely manner.

On the public procurement certification and training programme, at the end of 2017, a total of 478 employed procurement officers passed the professional certification examination, which is still lower than the number of contracting authorities. The number of contracting authorities could be further reduced to gain efficiency: in 2017 the figure stands at 620, compared with 614 in 2016 and 648 in 2015.

A regulatory and institutional framework is in place on **integrity and conflict of interest** mechanisms in public procurement. 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. In September 2017, the PPA and the Anti-corruption Agency signed a cooperation agreement to improve the public procurement system and reduce conflict of interest and corruption risks.

#### Efficient remedies system

The **right to legal remedy** is stipulated in the Constitution and the law on public procurement. The remedies system includes an administrative review by the State Commission for the **Control of Public Procurement (PPC)**, an independent administrative body reporting directly to Parliament. It does not cover concessions and, following the June amendments, no longer applies to low-value and defence/security procurements.

In 2017, the PPC decided upon approximately 1 000 cases and upheld about 30 % of the submitted appeals, which is slightly less than in the previous year. The number of Administrative Court rulings annulling decisions of the PPC is significant at about 40 % (2016 data). This and existing capacity bottlenecks undermine the functioning of the remedies system. The PPC is still understaffed, particularly given the large number of appeals. Last but not least the PPC's IT infrastructure would need to be further upgraded, while the transparency of PPC rulings still needs to be improved by upgrading the register of decisions and introducing user-friendly online search functions.

## 5.6. Chapter 6: Company law

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

Montenegro has reached a **good level of preparation** on company law. **Good progress** was made through adopting the Law on Audit and establishing a statutory audit oversight system.

In the coming year, Montenegro should in particular:

- align the law on business organisations with the *acquis* in the area of company law;
- continue alignment with EU corporate accounting and statutory audit *acquis* by adopting any necessary implementing legislation.

In the area of **company law**, draft amendments are advanced concerning the law on business organisations which aim at further *acquis* alignment on a wide range of issues, including cross-border mergers. Company takeovers are regulated under national legislation. The Law on Capital Markets, encompassing provisions for *acquis* alignment with transparency requirements for listed companies, was adopted in December 2017. Montenegro plans to adopt relevant bylaws to further align with the *acquis* in this area. Further compliance with EU corporate governance principles is necessary. Montenegro continues to develop online electronic company registration to facilitate the business environment. Efforts should also continue to facilitate exchange with EU Member States' business registers.

Progress was made on **corporate accounting and auditing** through the adoption in June 2017 of the Law on Audit, which governs rules and procedures for the registration and education of certified auditors, including a system of inspection and penalties. Statutory audit is mandatory for public-interest entities. A public audit oversight system has been set up with the establishment of the Audit Council, along with a dedicated unit in the Ministry of Finance to monitor the operations of certified auditing companies. Montenegro should ensure that this oversight system is adequately funded and resourced to enable its proper functioning. No oversight tasks have been delegated to the Institute of Certified Accountants of Montenegro, the professional body in this field. Montenegro applies international financial reporting standards (IFRS) and international auditing standards (IAS). A rulebook was adopted regulating the content, deadlines, and manner of compiling and submitting financial statements, aimed at further harmonisation with the EU Accounting Directive. The adoption of further rulebooks or bylaws are foreseen in order to achieve further *acquis* compliance on accounting and auditing.

## 5.7. 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 and coordination of concerned bodies. Serious challenges remain on enforcement.

In the coming year, Montenegro should in particular:

→ improve its track record of investigations, prosecutions and judicial follow-up, including reporting;

→ further strengthen capacities of all intellectual property rights-related bodies, in particular the Administration for Inspection Affairs – Market Inspections.

On **copyright and neighbouring rights**, a Rulebook on the sources of diligent searches appropriate for certain categories of works and phonograms was adopted in March 2017.

On **industrial property rights**, amendments to the Law on trademarks, the Law on protection of industrial design and the Law on patents were adopted in December 2016, aiming to align terminology with the newly adopted Law on general administrative procedure. The amendments are implemented as of July 2017.

On **enforcement**, Montenegro had developed an adequate statistical reporting format. Criminal investigation and prosecution remain unsatisfactory with only 2 cases in the reporting period. The Ministry of Economy established the Intellectual Property Rights (IPR) Coordination team in March 2017, in order to strengthen cooperation and enforcement mechanisms amongst the intellectual property rights bodies. Preparations have started for the accession to the European Patent Convention. The IT infrastructure was improved.

The staffing of the Intellectual Property Office (IPO) remains low: only 19 of the 27 posts are currently filled. The Administration for Inspection Affairs has no specialised inspectors for intellectual property and systematically loses staff, which reduces inspection capacity.

## 5.8. Chapter 8: Competition policy

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

Montenegro has **some level of preparation/is moderately prepared** in this area. **Some progress** was registered, in particular concerning the independence of the State Aid Authority - in February 2018 Montenegro adopted a law which serves as the legal basis to transfer the State Aid Authority into the Agency for Protection of Competition. As regards alignment with State aid rules, Montenegro has a good level of preparation, but further significant efforts are needed for their enforcement. Montenegro has a good level of preparation as regards alignment with the rules on antitrust and mergers. However, implementation of these rules continues to demonstrate some weaknesses.

In the coming year, Montenegro should in particular:

- ensure the functioning of the Agency for the Protection of Competition and improving its track record on antitrust and mergers;
- ensure the functioning at all levels of the State Aid Authority and effectiveness of its control on State aid at all levels, including the building up of an enforcement record;
- ensure transparency on all State aid decisions.

### Antitrust and mergers

The **legislative framework** is broadly in line with the *acquis* and the Stabilisation and Association Agreement (SAA). The law on protection of competition is largely aligned with TFEU Articles 101 on restrictive agreements and 102 on abuses of dominant position. The law also provides for an *ex ante* control of mergers above certain turnover thresholds, in line with the principles of the Merger Regulation. Implementing legislation 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 for implementing the law on the protection of competition. It is an operationally independent authority, whose director is appointed by the government.

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

On **enforcement capacity**, the APC's staff was increased by five persons, bringing the total to 19. However, its staffing level and expertise remain insufficient. On **implementation**, the number of decisions on cartels and abuses of dominant position have decreased over the years and stagnated in the reporting period, with 6 in 2014, 3 in 2015, 4 in 2016 and none in 2017. So far, the APC started an in-depth investigation of a merger only once in 2015, which resulted in its conditional approval. In addition, to date only one fine in 2014 and 2 in 2017 have been imposed by the misdemeanour court. The APC has so far carried out only 2 on-site inspections, of which 1 in the reporting period. In order to step up its enforcement policy, the APC needs to carry out more on-site inspections and to further promote the use of its leniency policy as a means to uncover cartels. The APC issued 8 opinions on the relevant secondary legislation.

Decisions of the APC appealed before the courts were upheld to some extent. The implementation of APC decisions was in some cases hampered by the application of the statute of limitation. The courts' capacity to handle complex competition cases must be significantly strengthened.

### State aid

The **legislative framework** is broadly 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 EU secondary legislation. Amendments to the Law on State aid control were adopted in February 2018 in order to further align with this *acquis*, as per the SAA obligations.



As regards the **institutional framework**, the State Aid Control Commission (SACC) is responsible for implementing the Law on State aid control. Administratively part of the Ministry of Finance, its members are nominated by aid-granting ministries. Decisions on State aid can be appealed before the Administrative Court.

In February 2018, Montenegro adopted amendments to the Law on the protection of competition, which further expand the mandate of the APC to include State aid control. The law thus serves as the legal basis to transfer the state aid authority to APC, and is an important step to meet the SAA requirement on the operational independence of the State Aid Authority.

The State Aid Authority has to establish a solid track record of enforcement. The SACC's **enforcement capacity** remained insufficient and its staffing level still inadequate. The SACC is assisted by the State Aid Control Unit, which saw its staff numbers reduced from 10 to 7 in 2017. The SACC's level of expertise and its budget were not increased.

On **implementation**, the number of decisions adopted by the SACC decreased significantly from 31 in 2015 to 19 in 2016 and to 13 in 2017 (with only two negative decisions taken in 2015). The SACC received no complaint between 2013 and 2017, which could indicate a low awareness of State aid rules among stakeholders. There is evidence that some aid measures granted at central or local level (e.g. through VAT exemptions), in particular to large companies, were not notified or properly investigated by the SACC. One example is Montenegro Airlines - the restructuring plan from 2012 for the airline has only been partially implemented but further State support was granted to keep the airlines operational. Awareness of the State aid rules among aid grantors is weak and advocacy must be stepped up considerably.

### 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 applying the laws would obstruct the performance of the particular tasks of services of general economic interest that are assigned to such undertakings, 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 as provided for in Article 37 of the TFEU.

## **5.9. 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. **Good progress** was made on legal alignment and in addressing the high level of non-performing loans, as recommended last year.

In the coming year, Montenegro should in particular:

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

On **banks and financial conglomerates**, the legislation on taking up and pursuing the business of credit institutions is largely aligned with the applicable EU rules. Montenegro's

capital adequacy requirements are based on Basel II. Alignment with the Capital Requirements Directive and the Directive on recovery and resolution of credit institutions and investment firms is yet to be achieved. In June 2017, Parliament enacted amendments to the Law on voluntary financial restructuring of debts to financial institutions, with the aim of facilitating the resolution of non-performing loans. Moreover, a new Law on financial leasing, factoring, purchase of receivables, micro-lending and credit guarantee operations was adopted in October 2017, further extending the supervisory tasks of the Central Bank.

Montenegro's rules on **insurance and occupational pensions** are partially aligned with those of the EU. They largely comply with Solvency I rules, but are yet to be aligned with the *acquis* on the taking up and pursuing of a business in the area of insurance and reinsurance (Solvency II). The Insurance Supervision Agency continued to build its capacity by training its employees, and in September 2017 adopted implementing legislation on reporting obligations and the conditions for the transfer of operations of insurance companies.

On **financial market infrastructure**, the Securities and Exchange Commission started to implement the recommendations of the 2016 IMF and the World Bank Financial System Stability Assessment. The laws on the Central Bank and on current and capital operations with foreign countries were amended in October 2017, further extending the supervisory tasks of the Central Bank. Montenegro also aligned national provisions with the *acquis* on settlement finality in payment and securities settlement systems.

On **securities markets and investment services**, a Law on capital markets was adopted in December 2017 to achieve further alignment with the *acquis* on markets in financial instruments, market abuse, prospectuses and capital markets; implementing legislation is yet to be adopted. In October 2016, representatives of Montenegro's Securities and Exchange Commission signed a Declaration on cooperation with other capital market regulators in the region.

## 5.10. 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. **No progress** was made during the reporting period and the previous recommendations were not fulfilled. While funding of the public service broadcaster services RTCG is now bound to the GDP, its editorial independence was challenged by disputed dismissals of members of its Council. The capacity of the Agency for electronic communications and postal services (EKIP) and the Agency for electronic media (AEM) needs to be strengthened.

In the coming year, Montenegro should in particular:

- provide the media regulators and the public service broadcaster with sufficient resources for their independent functioning, and shield them from undue political interference;
- grant AEM a mechanism for imposing penalties, i.e. the possibility to fine media outlets that violate the ethical standards laid down in the Law on electronic media;
- establish a track record to demonstrate administrative capacity to enforce the *acquis* for electronic communications, information society services and audio-visual media services, including as regards regulatory independence.

The Law on electronic communications regulates the **electronic communications and information and communication technologies** sector. It was adopted in 2017 to ensure the independence of the regulatory authority and to cover roaming. The Ministry for Telecommunications and Information Society (MfTaIS) has ceased to exist, with responsibility for this area transferred to the Ministry of Economy. As a result, the whole institutional set-up had to be reconfigured, with a new rulebook on the internal organisation of the Ministry of Economy adopted in May 2017.

Repeated legal proceedings launched by telecommunication operators against EKIP decisions to lower regional roaming rates with Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia are ongoing.

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

On **information society**, the newly established Ministry for Public Administration took over responsibility from the former MfTaIS. A new multiannual strategy, based on the Digital agenda for Europe and the Digital single market strategy, was adopted. It addresses issues such as accessibility of broadband services, cyber security, digital business, eHealth and e-education.

On **audio-visual policy**, the Agency for electronic media continues to exercise its mandate in a professional manner. However, the Agency's independence has been called into question due to its uneven implementation of sanctions for breaches of the code of ethics of journalists and its performance in monitoring the media in the run-up to elections. Legal provisions and its operational capacity for electronic media monitoring should be strengthened.

Amendments to the laws on electronic media and on the national public broadcaster (RTCG) came into force on 1 September 2017. They regulate the financing of the public broadcaster through a contract between the RTCG and the government. The law also foresees separate accounting for the RTCG, with a clear distinction between commercial and public funds. The RTCG budget for 2018 has been increased slightly from EUR 17.9 to 18.6 million. Stable financial resources need to be ensured, and editorial independence and professionalism standards further improved. Recent dismissals in the RTCG and AEM Councils raised serious concerns about their representativeness and independence, which need to be protected against undue influence and political pressure from any side.

## **5.11. Chapter 11: Agriculture and rural development**

*The common agricultural policy (CAP) 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** continued, including the entrustment with budget implementation tasks for two measures under the IPARD II programme.

In the coming year, Montenegro should in particular:

→ implement measures entrusted under the IPARD II programme and seek entrustment with budget implementation tasks for other measures of the programme;

→ continue to implement the action plan for *acquis* alignment on agriculture and rural development, in particular by further developing the integrated administrative and control system.

As regards **horizontal issues**, progress remains to be made in bringing direct support measures in line with the *acquis* by fully decoupling them from production and linking the payments to cross-compliance. Montenegro is advancing in establishing a **Land Parcel Identification System** as part of the overall **Integrated Administration and Control System (IACS)** needed to manage and control funding under the common agricultural policy. IACS development and capacity building need to continue in 2018. Farm advisory services are provided by regional centres of the Ministry of Agriculture and Rural Development but these services need to be strengthened. The development of a **Farm Accountancy Data Network (FADN)** is underway.

On **common market organisation (CMO)**, the Law on the organisation of the market in agricultural products aligning towards to the EU *acquis* in this area was adopted in July 2017. The development of implementing legislation needs to continue and administrative capacity must be developed.

On **rural development**, Montenegro was entrusted in October 2017 with budget implementation tasks for the IPARD II measures '*Investments in physical assets of agricultural holdings*' and '*Investments in physical assets concerning processing and marketing of agricultural and fishery products*'. The Financing Agreement entered into force on 6 December 2017. This provides the basis for the implementation of the IPARD II programme with the first call for proposals launched in February 2018. Another aim is for Montenegro to be entrusted with budget implementation tasks for additional programme measures in 2018.

On **quality policy**, the Law on quality schemes for agricultural and food products aligned with the EU *acquis* was adopted in March 2017. While implementing legislation has yet to be adopted, some progress is being made on the development and promotion of quality schemes in Montenegro. On **organic farming**, Montenegro has taken measures to align with the EU *acquis*: it has a competent authority for organic production, an accreditation system for the control bodies, and a system of certification of organic production. Organic farming is promoted through area and livestock unit payments but remains a small sector.

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

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

Montenegro is **moderately prepared** in this area. **Good progress** was made, including with the adoption of implementing legislation and on fighting animal diseases.

In the coming year, Montenegro should in particular:

→ continue to implement the strategy for transposing and implementing the *acquis*, especially on official control of compliance with feed and food law, animal health and animal welfare rules;

→ continue to improve administrative capacity, especially for inspection services and laboratories;

→ continue and support the ongoing upgrading process of food establishments.

On **general food safety**, good progress has been made on aligning food and feed safety legislation with the EU *acquis*. Several pieces of implementing legislation have been adopted during the reporting period.

On **veterinary policy**, the multiannual programme for the eradication of rabies continued. The autumn 2016, spring 2017 and autumn 2017 vaccination campaigns were completed. The vaccination of cattle against lumpy skin disease was carried out in 2017. Since September 2016 no cases of lumpy skin disease have been registered, which is an important step towards stopping its spread into the EU. The programme of compulsory measures for animal health protection was implemented in 2017 and the programme for 2018 has been prepared. Capacity building for veterinary services was further pursued.

On the **placing on the market of food, feed and animal by-products**, Montenegro provided legal preconditions for the production, processing and placing on the market of raw milk and milk products in line with EU requirements. On the upgrading of establishments, a national programme was adopted in July 2017 to improve facilities for products and by-products of animal origin. This includes plans to improve Category III facilities by introducing deadlines for removing irregularities. The number of establishments compliant with EU regulations increased from 11 to 70 since the beginning of 2016. An audit by the European Commission of the official controls system for meat and milk in November 2017 provides recommendations to further improve the system, particularly on the verification of official controls.

Implementing legislation on **food safety rules** was adopted in various fields.

On **specific rules for feed**, no relevant developments have taken place.

Implementing legislation on **phytosanitary policy** in the field of plant health, seed and planting material and plant protection was adopted. Montenegro began to implement its national plan for sustainable use of plant protection products in accordance with the 2016-2021 action plan. Capacity building for phytosanitary services was further pursued. The programme of phytosanitary measures for 2017 was implemented and the programme for 2018 has been prepared. The plant passports system for grapevine planting material was implemented.

No developments on **genetically modified organisms (GMOs)** have taken place.

### **5.13. 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**. **Good progress** was made in this area, particularly as regards the strengthening of administrative capacity.

In the coming year, Montenegro should in particular:

→ continue implementing the action plan on aligning with, implementing and enforcing the EU *acquis*;

→ continue strengthening administrative, data collection, scientific advice, inspection and control capacities.



The new Directorate General for Fisheries was established in the Ministry of Agriculture and Rural Development in March 2017. This strengthens Montenegro's administrative capacity in the area of fisheries. The Directorate-General consists of a directorate for resource and fishing fleet management, and a directorate for monitoring and inspection supervision. The Directorate General currently employs 10 people, including three inspectors.

On **resource management**, an annual data collection programme on the Montenegrin fisheries, aligned with the EU *acquis* and the recommendations of the General Fisheries Commission for the Mediterranean (GFCM), was successfully developed. Implementation of the programme started in April 2017.

On **inspection and control**, good progress was made in upgrading the Fisheries Information System (FIS) and in developing the Automatic Location and Identification system (AIS). On illegal, unreported and unregulated fishing (IUU), the Law ratifying the FAO Agreement on port state measures to prevent, repress and eliminate illegal, unreported, and unregulated fishing was adopted in March 2017. On fisheries governance, Montenegro signed the Malta MedFish4Ever Declaration including its action plan for sustainable fishing and fishing communities in the Mediterranean.

There were no substantial developments on **fleet management, structural actions, market policy, state aid, or international agreements**.

#### **5.14. Chapter 14: Transport policy**

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

Montenegro is **moderately prepared/has a good level of preparation** in the area of transport policy. **Some progress** has been achieved thanks to further legislative alignment in maritime and road transport, but more efforts are needed for inland waterways and intelligent transport systems. Further strengthening of administrative and technical capacity is needed for alignment, implementation and enforcement in road, rail and maritime transport.

In the coming year, Montenegro should in particular:

- ensure the operational independence and appropriate staffing of the railway regulatory body and the railway safety authority;
- increase efforts to lay down the strategic framework for implementing Intelligent Transport Systems (ITS) on its core road, rail and maritime network and to align with the ITS Directive;
- achieve full membership of the Paris Memorandum of Understanding (MoU) on port State control.

On the **general transport** *acquis*, Montenegro signed the Transport Community Treaty in July 2017 and ratified it in March 2018. The strategic framework is in place and is expected to be further strengthened by the new transport development strategy which is being finalised. The single project pipeline for the transport sector was updated in 2017. Further efforts should be made to complete alignment with the *acquis* on public service obligations, passengers' rights, and on procedures and criteria for the award of public service contracts in the field of road and rail transport. No further alignment was made with the *acquis* on summertime arrangements. The administrative capacity of the Ministry of Transport and Maritime Affairs

has recently been strengthened with the establishment of a new Directorate for International Cooperation and EU Funds, which should streamline and coordinate EU-funded transport infrastructure projects. The accident investigation body for air, maritime and rail transport was established in 2015 and is fully operational.

On **road transport**, the new law on road transport was adopted, providing for further alignment with the *acquis*, but the new law on road safety is still to be adopted. Fatal and serious road traffic accidents are still significantly above the EU average and further efforts by all responsible institutions are needed to implement and enforce the legislation on road safety, as well as for education and awareness-raising of road users. The 2017 programme for the reconstruction and maintenance of state roads amounted to EUR 38 million, marking a EUR 6 million decrease year-on-year.

The law on the transport of dangerous goods was adopted in 2014 and further amended in February 2018 but its implementation is lagging behind and the national body for the control of transport of dangerous goods has not been set up. No progress was made on the alignment with the *acquis* on transportable pressure equipment. With the new law on road transport, further alignment was made on market access, particularly for coach and bus services. Further alignment to the *acquis* is needed on driving times and rest periods, while enforcement of the existing social legislation needs to be further improved. No progress was made on clean and energy-efficient road transport vehicles or on intelligent transport systems. Cycling as an alternative, energy-efficient mode of urban transport is being promoted through the construction of dedicated cycling lane infrastructure in Podgorica.

On **rail transport**, in March 2017 the government adopted a new 2017-2027 strategy for the development of the railway sector and the 2018-2020 national railway infrastructure programme in December 2017. The reorganisation of the Railway Directorate into an independent and effective railway regulatory body and safety authority is yet to be completed. Additional efforts are needed to implement effectively the EU legislation on rail passengers' rights and to reduce delays and cancellations. Open access to the railway infrastructure, with transparent charges and capacity allocations, needs to be further aligned with the *acquis*.

As regards rail market opening, concrete measures on the review of national technical rules and safety rules are yet to be adopted. Furthermore, network statements for rail and sea freight terminals are yet to be published, and a consultation platform with freight forwarders and shippers has not yet been created. A public call for tenders for the sale of 51 % of shares in the Montecargo Joint Stock Company was unsuccessful. Further implementing legislation on railway safety and interoperability has been adopted, but implementation remains insufficient. Montenegro should take concrete steps in aligning with the rail technical specifications on Control Command and Signalling (TSI CCS) of the *acquis*.

On **maritime transport**, amendments to the law on the safety of maritime transport were adopted. However, implementation needs to improve especially on port State control. The community vessel traffic monitoring and information system (VTMS) has been operational since 2015 and there are ongoing efforts to comply with the technical criteria for becoming a full member of the Paris Memorandum of Understanding. On maritime education, training and certification systems for seafarers, Montenegro ratified the Seafarers' Identity Documents Convention. Montenegro's system of seafarers' training, education and certification was recognised at EU level in 2017 and, as a result, Montenegrin seafarers are able to work on board EU Member States' fleet. The law on the safety of maritime transport was further aligned with the Maritime Labour Convention.

On **inland waterway transport**, no progress was made on legislative alignment with the EU acquis. Montenegro participates in the EU strategy for the Danube Region. It is not a signatory of any international or bilateral agreements on internal navigation. Montenegro is yet to adopt a law on merchant shipping.

On **aviation**, Montenegro has reached a good level of alignment with the acquis under the first transitional phase of the European Common Aviation Area (ECAA) Agreement and the Single European Sky. With the entry into force of the ECAA Agreement, Montenegro has yet to demonstrate that remaining open issues related to the first transitional phase can be solved imminently, in particular on economic regulation. Legislation is aligned with the acquis on aviation safety and was further improved in 2017 with designations on safety controls of aircrafts and airports. In 2016, Montenegro adopted a rulebook laying down detailed rules for the implementation of air traffic management (ATM) network functions. The national airline company 'Montenegro Airlines' is facing major sustainability issues, having accumulated significant financial debts. Montenegro has adopted regulations on airport capacity, schedule facilitation and slot allocation.

On **combined transport**, Montenegro adopted in 2014 a new law on combined freight transport that also aligned with the acquis on the establishment of common rules for certain types of combined transport. However, significant efforts are needed to further develop intermodal transport, especially as regards the transport of containers from the port of Bar and the construction of suitable intermodal terminals.

#### **5.15. Chapter 15: Energy**

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

Montenegro has reached a **good level of preparation** in the field of energy. **Some progress** was made in the reporting period, especially on further legislative alignment related to renewable energy and energy efficiency.

In the coming year, Montenegro should, in particular:

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

On **security of supply**, Montenegro has an energy development strategy up to 2030, with a 2016-2020 action plan and a long-term energy balance for 2017-2019.

Concerning oil stocks, the action plan on compulsory strategic reserves of oil and/or petroleum products was adopted in April 2015, but the Law on security of supply of oil products, which should start implementation of the Oil Stocks Directive, is yet to be adopted. The current level of stocks remains close to zero.

Montenegro has participated in the European Network of Transmission System Operators for Electricity (ENTSO-E) since its beginning. An interconnection with Italy is under way and others with Serbia and Bosnia and Herzegovina are planned. Montenegro does not have a gas

market. It signed a multilateral memorandum of understanding under the Berlin process to establish a day-ahead market and merge it with a neighbouring market by 2018.

The 2015 energy law and the 2016 law on cross-border exchange of electricity and natural gas are aligned with the Third Energy Package on the **internal energy market** for both electricity and gas. Implementing legislation is still needed. The amendment to the energy law of July 2017 further specified the responsibilities of the Energy Regulatory Agency (ERA). ERA experts joined the Agency for the Cooperation of Energy Regulators (ACER) working groups in January 2018.

The power distribution and supply functions of the Montenegrin Electric Power Company have been legally separated since 2016. The electricity market for households was opened up in 2015 but no new providers entered the market. Customers connected to the high voltage network have been supplied under negotiated prices. Since 2006, the aluminium plant, KAP, has been a self-supplier in the wholesale market with its own balancing responsibility. ERA preliminarily certified the transmission system operator in October 2017.

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

ERA is an operationally and financially independent authority with 32 staff, but its overall independence still needs further improvement. ERA regulates prices for power from domestic producers based on market prices and prices of grid services. Wholesale electricity market prices are freely formed. There are no more cross-subsidies in the market and tariffs for supply to vulnerable buyers were introduced in 2012.

The national legislation is aligned with the **Hydrocarbons** Licensing Directive; the Safety of Offshore Operations Directive is not yet fully implemented. Concession contracts for production of hydrocarbons were signed in September 2016 and March 2017. Montenegro adopted the gasification master plan in June 2017, including the list of priority investment projects and its strategic environmental impact assessment, as well as the programme for offshore exploration and hydrocarbon production in July 2017. 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 2014. In 2016 41.6 % of energy gross final consumption came from renewable sources, thus exceeding the 33 % 2020 target, due to a revision of data on biomass. The national legislation has been partially aligned with the Renewable Energy Directive; some implementing legislation was adopted.

Support to RE producers is based on feed-in tariffs. The country needs to move to an auction system compliant with the 2014-2020 Guidelines on State aid for environmental protection and energy. Development of new projects, particularly on hydropower, should be in conformity with the EU legislation on concessions and the environment and should take into account the impact on areas of high natural interest. ERA issues certificates of origin. Administrative and grid-related procedures remain cumbersome for RE producers. Sustainability criteria for biofuels and bio-liquids are yet to be implemented.

The 2016-2018 **energy efficiency** action plan aims to achieve 9 % savings of the average five-year final energy consumption by 2018 and to renovate 1 % of central government buildings by February 2016. The energy efficiency obligation schemes have not yet been established. Further alignment was achieved thanks to the adoption in December 2016 of the

2017-2019 plan for reconstruction of state-owned buildings. An annual energy efficiency operating plan of public administration institutions was adopted in April 2017. Part of the energy efficiency *acquis* is yet to be adopted, but several rulebooks on energy labelling (2016) and eco-design for energy-related products (2017) were adopted. Montenegro is not fully compliant with the Energy Performance of Buildings Directive. Administrative capacity has to be considerably strengthened, in particular for inspection supervision and local administration.

On **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. In December 2016, the 2017-2021 strategy and action plan for protection from ionising radiation, radiation safety and management of radioactive waste were adopted. National legislation on ionising radiation protection and basic safety standards is partly aligned with the *acquis*.

Montenegrin legislation is not yet 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 is implementing the Treaty on the non-proliferation of nuclear weapons and additional protocols.

In July 2017, the European Commission received the Agreement between the European Atomic Energy Community (Euratom) and Montenegro for their participation in the Community arrangements for the early exchange of information in the event of radiological emergency (ECURIE). However, Montenegro is still to submit critical information in order to become a fully operational ECURIE member. Montenegro also expressed willingness to voluntarily join the European Radiological Data Exchange Platform.

The regulatory body for radiation and nuclear safety and security and radioactive waste management is composed of 8 representatives from the Ministry of Sustainable Development and Tourism, the Environmental Protection Agency, the Administration for Inspection Affairs and the Ministry of Interior. A five-member advisory committee for protection against ionising radiation and radiation safety was set up in April 2012. Montenegro has a licensed and operational storage facility for radioactive waste, mainly from medical and industrial applications, in compliance with international standards since 2012.

#### **5.16. Chapter 16: Taxation**

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

Montenegro is **moderately prepared** in the area of taxation. **Some progress** was made in this field, including on the 2016 recommendation.

In the coming year, Montenegro should in particular:

→ continue to implement the action plan addressing the issues highlighted by the Tax administration diagnostic assessment tool (TADAT) analysis.

→ ensure that by end 2019 it joins the Global Forum on Transparency and Exchange of Information for Tax Purposes and the Inclusive Framework of OECD BEPS (base erosion and profit shifting), and signs the OECD multilateral convention on mutual administrative assistance in tax matters.



Montenegro adopted and started implementing the action plan to address the issues highlighted by the Tax administration diagnostic assessment tool analysis. The Fiscal Strategy 2017-2020 and the action plan for the suppression of a "grey" economy were adopted in June 2017.

On **indirect taxation**, amendments to the law on *value added tax* (VAT) raising the VAT rate from 19 % to 21 % were adopted in July 2017 and came into force on 1 January 2018. These amendments also reduced the exemption threshold for goods imported in the personal luggage of travellers to less than EUR 75. Amendments to the law on *excises* were also adopted in July 2017, thereby increasing excises on petrol and diesel and by introducing excise on natural gas to bring them closer to the EU minima excise rates. A number of tax exemptions granted to holders of private yachts are not in line with the EU *acquis*.

On **direct taxation**, certain legislative changes, such as amendments to the laws on personal income, salaries of public sector employees and on health insurance, were made to ensure smoother implementation of the existing legislation. In October 2017, the law on sales tax for used motor vehicles, vessels, aeroplanes and aircrafts was amended.

Regarding **administrative cooperation and mutual assistance** Montenegro is yet to automatically exchange financial account information based on the OECD single Global Standard and to introduce a tax administration central liaison office (CLO). Montenegro has committed to become a member of the OECD Global Forum and its Inclusive Framework on BEPS as well as to sign and ratify the Convention on multilateral competent authority agreement on automatic exchange of financial account information by 2019.

On **operational capacity and computerisation**, the tax administration took actions to improve the business processes, as foreseen in an action plan adopted in October 2016. These actions include legislative (a law on re-programming of tax claims) and operational actions as well as activities related to the improvement of the IT systems. In January 2018 Montenegro signed a contract with the World Bank for a loan of EUR 14 million for a project on tax administration reform and an EU Twinning project ("Support to Tax") started, designed to assist Montenegro with alignment to the EU *acquis* in Chapter 16.

#### 5.17. Chapter 17: Economic and monetary policy

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

Montenegro remains **moderately prepared** in the area of economic and monetary policy. **Good progress** was achieved through the adoption and ongoing implementation of an action plan for *acquis* alignment on economic and monetary policy, and of a medium-term fiscal consolidation strategy, in line with the 2016 report's recommendations.

In the coming year, Montenegro should in particular:

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

Montenegro does not have standard **monetary policy** tools at its disposal, as it uses the euro as legal tender, leaving fiscal policy as the main macroeconomic policy instrument. Its present use of the euro, decided by the national authorities under exceptional circumstances, is fully distinct from membership of the euro area. Within this framework, amendments to the Law on the Central Bank and the Law on current and capital operations with foreign countries, adopted in October 2017, created the legal preconditions for the full functional, institutional,

personal and financial independence of the Central Bank. The amendments also authorise the Central Bank to approve emergency liquidity assistance to a credit institution and stipulate that it can buy public debt securities only on the secondary market. Legislation on insurance and voluntary pensions needs to be brought in line with EU rules on the prohibition of privileged access of the public sector to financial institutions. Further steps are needed to ensure that the primary objective of price stability is defined in compliance with the TFEU.

On **economic policy**, the government submitted its 2018-2020 economic reform programme (ERP) in January 2018. The authorities' analytical capabilities to design, implement and monitor structural reforms are gradually improving. Work progressed under the strategy for implementing the 2010 methodology of the European System of Accounts standards (ESA 2010). Montenegro continues to regularly submit fiscal notifications and produces some of the data required for the macro-economic imbalance procedure. However, the notifications are incomplete and need to be aligned with EU requirements, in particular as regards data relating to the excessive deficit procedure.

Further alignment with the EU Directive on Requirements for Budgetary Frameworks is needed. While Montenegro has put in place a multiannual budgetary framework, its content and reliability need further improvement. Particular efforts should be invested in further strengthening economic policy formulation. While the macroeconomic framework is broadly consistent, the 2016 budget surpassed Montenegro's fiscal rules' deficit and debt limits of 3 % and 60 % GDP respectively. In response, the government adopted a medium-term fiscal consolidation strategy in June 2017. The strategy's full implementation will be essential for safeguarding the sustainability of public finances and stabilising the level of public debt to gradually comply with the fiscal rules, including through the adoption of additional fiscal measures, if needed.

#### **5.18. Chapter 18: Statistics**

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

Montenegro is **moderately prepared** in the area of statistics. **Some progress** was made on harmonising the statistical methodology with EU standards and the increased transmission of data, notably macroeconomic, social, business and agricultural statistics. However, significant efforts are still needed in the statistical system to address the 2016 recommendations.

In the coming year; Montenegro should in particular:

→ considerably strengthen the human and financial resources of the Statistical Office of Montenegro (Monstat) and also strengthen the human resources of the Ministry of Finance in order to fulfil its responsibilities regarding government finance statistics;

→ 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. The government of Montenegro issued a "Commitment on Confidence" in February 2018, guaranteeing Monstat's professional independence and demonstrating its trust in the National Statistical System of Montenegro. However, Monstat's financial and administrative capacities are still limited due

to inadequate resources: only 107 of 200 available posts are filled. Monstat's office premises also remain inadequate, both in terms of space and of the image they provide.

Monstat has signed 19 memoranda of understanding with administrative data providers. Coordination of producers of official statistics also continued to improve, but needs further strengthening. The main classifications (NACE Rev. 2, ISCO-08, NUTS, CPA, GEONOM and ISCED 2011) are in compliance with the EU *acquis*.

Data transmission to **Eurostat** increased. However, although progress was achieved in the area of **macro-economic statistics**, continued efforts will be needed to align them with ESA 2010. Monstat compiles annual and quarterly gross domestic product (GDP) using the output and expenditure approach in current and previous year prices. Revised time series for GDP for 2006-2009 according to ESA 2010 were transmitted to Eurostat. Monstat does not yet compile annual or quarterly sector accounts.

Considerable efforts are needed to develop government finance statistics and financial accounts. The Central Bank compiles statistics on the balance of payments and foreign direct investment, which are partially aligned with the EU *acquis*. The harmonised index of consumer prices (HICP) and purchasing power parities (PPP) are mostly aligned. The excessive deficit procedure (EDP) tables have been regularly sent to Eurostat since October 2014, on best effort basis with important tables missing.

In **business statistics** Monstat started transmitting structural business statistics (SBS) data to Eurostat in July 2017. Short-term statistics (STS) improved over the reporting period. The Business Register is largely aligned with the EU PRODCOM list of EU products, but no foreign affiliates' statistics (FATS) have been received by Eurostat. Tourism statistics are compliant except for dissemination of the data due to national restrictions to publishing pilot data. Transport statistics are largely aligned. Research and development data are in line with the EU *acquis*.

In **social statistics**, Montenegro has started preparations for applying a register-based census methodology for the 2021 population and housing census making a maximum use of registers kept by other public bodies. The survey of income and living conditions (EU-SILC) continues to be conducted and has been further aligned. Labour market statistics are broadly aligned with the EU *acquis*, work to produce structure of earnings data progressed well but further improvement is needed on the labour cost index. Crime statistics are partially in line with Eurostat's annual data collection requirements. Eurostat receives data on the migrant population, migration and acquisitions of citizenship statistics without metadata and has not yet received data on asylum.

Good progress was achieved in **agricultural statistics**. Complete datasets of annual crop statistics (ACS) and animal production statistics (APS) have been transmitted to Eurostat, as well as the results of the 2016 Farm Structure Survey (FSS). Production accounts for agriculture were established for the period 2012-2016. **Energy statistics** are fully compliant for annual data and partially compliant for monthly data. Energy price statistics are fully compliant. In March 2017, Eurostat was able to publish the first SHARES (Renewable energy sources) data for Montenegro. In **environment statistics**, waste statistics are partially compliant. Statistics on environmental accounts have not yet been received by Eurostat.

## **5.19. 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 **some level of preparation** in the field of social policy and employment. **Some progress** was made in the reporting period. Alignment with the *acquis* is ongoing. The mismatch between the education system and labour market needs remains an issue of concern.

In the coming year, Montenegro should in particular:

- develop prior gender impact assessment of the policies;
- introduce active labour market measures for women negatively affected by the repeal of the social benefits;
- increase the collaboration with the social partners and other non-state actors operating in the sector.

On **labour law**, legislative alignment with the major pieces of EU legislations is still pending. A monitoring system for the implementation/impact of the legal framework needs to be set up.

On **health and safety at work**, a number of rulebooks were adopted in the reporting period. Better monitoring is needed to check that the Law on health and safety at work is being implemented effectively. Only 9 inspectors work in the area of health and safety at work, a number which is considered insufficient. Regarding accidents at work, up to 20 % were recorded as being fatal. In addition, Montenegro still does not have a functional National Institute for Occupational Health.

With regard to **social dialogue**, the social partners should be, more systematically and with better notice, consulted on issues concerning employment and social affairs, including on developing strategic documents. No effective measures were taken to increase and strengthen the capacities for better functioning of the Social Council which remains underused despite its mandate in this field.

On **employment policy**, the Government adopted in December 2016 the 2017 action plan for the implementation of the national strategy for employment and human resources development. Based on the Labour Force Survey for the third quarter of 2017, the unemployment rate fell to 14.8 %. However, the activity rate remains low at 56.4 % and the inactivity rate is high at 43.6 %. Women, youth and long-term unemployed remain in the hard to employ categories and regional differences persist. A white paper to promote youth work was prepared in cooperation with the International Labour Organisation (ILO). On the informal economy, labour inspections need further improvement and the statistics and diagnostic tools are not available regularly. The IT system of the Employment Agency of Montenegro needs to be updated.

As regards preparations for the **European Social Fund (ESF)**, the implementation of the first operational programme for human resources development (2012-2013) was successfully concluded in December 2017.

On **social inclusion and protection**, the 2017-2021 strategy and action plan for the prevention and protection of children against violence were adopted in April 2017. In addition, the 2018-2022 strategies for the development of a system for social and child protection and of a system for protection of the elderly, together with their corresponding 2018 action plans, were adopted in September 2017. The Constitutional Court ruled the amendments to the Law on social and child protection granting mothers of three and more children social benefits as unconstitutional. A new piece of legislation was put in place

instead, laying down different conditions for each affected category of women. However, proper implementation of the legislative framework needs to be ensured and significant efforts are needed so that former beneficiaries of these social benefits are not put in a worse economic situation than before the benefits were introduced. Support measures to increase labour market participation of women are also necessary.

In July 2017, an agreement was signed between the Employment Agency of Montenegro and social work centres on new working methods for the preparation of individual activation plans.

On de-institutionalisation, the significant reduction in the overall number of children living in institutions (including the absence of any child under the age of 3) has been maintained. Alternative care services need to be strengthened to complete the successful de-institutionalisation efforts.

The sustainability of social services remains a concern, as full decentralisation of service provision and funding has still not happened. Adequate financial resources need to be secured to ensure the provision of continuous social services at local level as well assisting in the implementation of local social inclusion plans. Moreover, the Institute for Social and Child Protection is under-funded which hinders its functioning.

The implementation of the second phase of the social card – social welfare information system continued successfully. Moreover, the linkage between activation measures and the work of social protection schemes needs to be strengthened.

On **non-discrimination in employment and social policy**, amendments to the Law on prohibition of discrimination were adopted in June 2017. December 2016 saw the adoption of the strategy for the protection of persons with disabilities from discrimination and the promotion of equality for the period 2017-2021, along with its 2017/2018 action plan. Also in December 2016, a manual on promoting decent work opportunities for young Roma in Central and Eastern Europe was presented by the authorities in cooperation with ILO. Additionally, Montenegro is still not fully aligned to the UN Convention on the Rights of Persons with Disabilities.

On **equality between women and men in employment and social policy**, in March 2017 the government adopted the 2017-2021 plan of activities for reaching gender equality together with the accompanying programme for 2017-2018. The 2017 action plan for the implementation of the 2015-2020 strategy for the development of women's entrepreneurship was adopted in April 2017. Financial and non-financial support to single parents is insufficient despite an increased number of facilities, financial and non-financial support to single parents. Women continue to be exposed to various severe forms of gender discrimination, including discrimination based on marital status and motherhood.

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

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

Montenegro is **moderately prepared** on enterprise and industrial policy. **Some progress** was made on implementing the industrial policy and strengthening Small and Medium-sized Enterprise (SME) support, as recommended in the 2016 report. There is a need to further build up administrative capacity and ensure strong inter-ministerial coordination.



In the coming year, Montenegro should in particular:

→ continue to implement industrial policy in close cooperation with industry and other relevant stakeholders, and conduct a mid-term review of the policy to assess its effectiveness.

On **enterprise and industrial policy principles**, the government transformed the previous working team into a coordination body to implement its 2016-2020 industrial policy with a view to improving the sectoral and inter-ministerial coordination. A mid-term review is planned for 2018.

The 2016 Small Business Act assessment found that Montenegro made some progress in its institutional and regulatory environment for SMEs and good progress on lifelong and entrepreneurial learning. At the same time, increased efforts to strengthen business support services are needed.

Business representatives underline that further simplification of business-related legislation should be a priority. In spite of improvements, administrative procedures for issuing permits and licences remain costly and time consuming. National legislation is not yet fully aligned with the *acquis* on combating late payment in commercial transactions.

The Decree on business zones, adopted in November 2016, lays down the conditions for setting up such zones at national and local levels. Existing zones need to harmonise their operational rules and incentives for beneficiaries by mid-2018.

On **enterprise and industrial policy instruments**, investment incentives were expanded further. The country's Investment and Development Fund approved credits and factoring arrangements worth EUR 172.2 million in 2017. During the same period, under the 2017-2020 cluster development programme seven clusters received support totalling EUR 100 000. Montenegro continued to participate in the EU's COSME competitiveness programme. However, effective working structures still need to be created to help Montenegrin applicants prepare their applications for EU funding under the COSME programme.

On **sector policies**, Montenegro is yet to adopt a new SME strategy. Specific SME non-financial support measures are being implemented in the context of the 2017/18 Economic Reform Programmes. This includes SME mentoring and European Enterprise Network advisory services, financial literacy activities, and the establishment of an electronic database on consultancy services. The 2015-2020 strategy for the development of women entrepreneurship and the 2015-2019 strategy for the promotion of life-long learning continued to be implemented.

#### **5.21. 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 reporting period, notably the signature of the Transport Community Treaty in July 2017 and its ratification in March 2018.

In the coming year, Montenegro should in particular:

→ strengthen the administrative capacity for trans-European networks in transport, telecommunications and energy;

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

On **transport networks**, Montenegro continued to participate in the South East Europe Transport Observatory and in the Western Balkans 6 connectivity agenda. It reached a very good level of implementation of the connectivity reform measures, signed the Transport Community Treaty in July 2017 and ratified it in March 2018. Montenegro is yet to adopt a new transport development strategy, in line with the TEN-T objectives and updated (June 2017) single project pipeline priorities. Some financing resources remain to be identified.

Montenegro contributes to the TEN-T Regional Transport Network with a number of rehabilitation and upgrading projects, such as the port of Bar, Podgorica Airport, the Bar-Boljare highway (extension of the Orient East-Med core corridor in the Western Balkans) and the Bar-Vrbnica railway. Progress was made with the construction of the first priority section Smokovac-Matesevo of the Bar-Boljare highway, while other sections are at a preliminary design stage. A comprehensive cost benefit analysis for the entire highway will set recommended standards and means of financing for the remaining sections, in line with EU public procurement rules. Upgrading of the Bar-Vrbnica railway is at an early stage of implementation using EU funding. Progress was also made on studies for the design of the Adriatic-Ionian highway.

As regards the **institutional framework** and administrative capacity, the Ministry of Transport and Maritime Affairs' Directorate for Railways, Transport and State Roads is in charge of the TEN-T. In the road sector, a state-owned company is responsible for the development of Montenegro's highways and transport facilities. In the rail sector, the administrative and technical capacity of the four state-owned companies remained limited.

Montenegro is yet to fully align its legislative framework with the TEN-T and TEN-E *acquis*. However, the national legislation on railway interoperability, the safety of road transport infrastructure, the Single European Sky regulation and air transport operations have been fully aligned with the *acquis*.

On **energy networks**, Montenegro has an energy development strategy up to 2030, with an action plan 2016-2020. The 2012 European Energy Community strategy still applies. Some progress was made on the connectivity reform measures for energy.

Progress was identified on the Projects of Energy Community Interest, particularly the ongoing interconnection of the electricity systems of Montenegro and Italy by undersea cable and the planned extension to Serbia and Bosnia and Herzegovina. Design studies are on-going for the Ionian-Adriatic Pipeline, which is one of the Projects of Mutual Interest.

The Ministry of Economy's Directorate of energy is in charge of TEN-E. Although there are no dedicated posts dealing directly with TEN-E, 3 staff members at the Directorate perform TEN-E related activities. As regards the Trans-European Communication Networks, the law on electronic communications is aligned with the *acquis*.

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

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

Montenegro is **moderately prepared** on regional policy and the coordination of structural

instruments. **Some progress** was made on implementing the action plan to meet EU cohesion policy requirements.

In the coming year, Montenegro should in particular:

→ take steps to demonstrate a positive trend in implementing the EU pre-accession funds and make progress in its efforts to carry more indirect management of funds.

On the **legislative framework**, key strategic documents have been adopted (such as a national strategy for regional development, sectorial strategies and action plan for meeting the requirements of the EU Cohesion Policy). The transposition of key parts of the *acquis* under other chapters (e.g. EU legislation on environmental impact assessment, anti-discrimination legislation, public procurement, and State aid control, etc.) is a necessary prerequisite for proper implementation of European structural and investment funds. The adopted fiscal strategy for 2017-2020 constitutes a step towards multi-annual budget planning.

On the **institutional framework**, some preparatory work was conducted. The institutional framework for management of EU pre-accession assistance (IPA) is operational and has been established, but the implementation capacity to make it more effective needs to be further improved.

On **administrative capacity**, the management structure for IPA was reorganised and improved with the National Authorising Officer (NAO) being given a higher level of seniority. A new administrative procedure was also put in place requiring the opinion of the NAO on all organisational changes in the management structures of IPA funds. However, staff turnover remains an issue of concern, with the recruitment and retention plan still to be developed and implemented.

On **programming**, the introduction of the sectoral approach under IPA had a positive effect. A special body for strategic planning coordination was created which should consolidate a number of strategies from some of the existing sectors. The single project pipeline adopted for the first time in December 2015 is being periodically reviewed, the most recent review was carried out in June 2017.

On **monitoring and evaluation**, the monitoring committees under decentralised/indirect management have been set up and meet regularly. An interim evaluation for regional development operational programme is under implementation, as well as an *ex-post* evaluation on the performance of the human resources development operational programme. A management information system still needs to be developed.

As for **financial management, control and audit**, the legal framework is in place. Based on the Audit Authority's assessment some further improvements are needed on human resources and internal organisation.

## 5.25. Chapter 25: Science and Research

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

There is a **good level of preparation** in this chapter and **some progress** was made through expanding international cooperation and steps taken to improve Horizon 2020 results.

In the coming year; Montenegro should in particular:

→ develop a smart specialisation strategy;

→ continue efforts to improve participation in Horizon 2020 and increase investment in research.

On **research and innovation policy**, Montenegro adopted its 2017-2021 strategy and action plan for scientific research activities in December 2017. Gross domestic expenditure on research and development (R&D) remains low at 0.38 % of GDP (2015) with 58 % coming from public sources, and 30 % from the private sector. 673 fulltime equivalent researchers were employed in R&D in 2015. Statistics gathering for R&D and innovation is not yet at an adequate level. Montenegro needs to develop a human resources strategy for research which will form part of its integration into the Regional Economic Area.

Montenegro is preparing a smart specialisation strategy with the support of the Commission, and an inter-ministerial working group, including business, academia and NGOs has been established. At this stage, the main sector priorities are sustainable agriculture and energy, ICT, manufacturing, and health and wellbeing; tourism is a cross-cutting priority.

Work on establishing a Science and Technology Park at the University of Montenegro continued and the innovative entrepreneurship centre “Tehnopolis” is now fully operational. Some 14 EU funded small-scale projects were supported to strengthen cooperation between academia and the private sector, but more efforts are needed in this regard. Activities are underway to strengthen cooperation with the scientific and research diaspora community.

To date, Montenegro's participation in the **framework programme** Horizon 2020 (H2020) remains limited (13 projects). However, participatory capacities of applicants, such as success rates, have improved and are close to the European average. Training was provided to improve the development of project proposals. In addition, the H2020 National Office, national focal points, and the system of delegates to the H2020 Programme Committees were reorganised, and awareness raising measures continued. Montenegro is receiving support from the Horizon 2020 Policy Support Facility.

Montenegro continues to be active in the EUREKA and COST projects, as well as the NATO Science and Peace for Security, and the International Atomic Energy Agency programmes.

## **5.26. Chapter 26: Education and Culture**

*The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policy through the open method of coordination. 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. The **good progress** made on implementing the revised curricula based on learning outcomes, revised enrolment policies, and the introduction of practical learning must be maintained and ensured across all levels of education.

In the coming year, Montenegro should in particular:

→ continue efforts to increase pre-school participation rates, including from disadvantaged backgrounds;

→ continue with curricular reform in primary and secondary education to teach basic and transversal skills and focus on learning outcomes;

→ continue to strengthen sector governance and improve enrolment policies for vocational and higher education.

On **education and training**, numerous laws were amended introducing significant regulatory changes from pre-school to higher education. The 2017-2018 action plan to implement the strategy to develop general secondary education (2015-2020) was adopted in December 2016. The revised enrolment policy for gymnasias and vocational schools aims for reduced class size. The 2017-2024 strategy for teacher education and related 2017-2018 action plan were adopted; training should focus on developing students' key competencies. Pre-school participation rates remain low, although with an increase from 38 % to 43 %. The rate of early school leavers reduced slightly to 5.5 % compared to 5.7 % in 2015, while lifelong learning remains low at 3.3 % (EU 2020 target 15 %). The annual budget for education increased slightly to 4.3 % of GDP. Montenegro established a working group tasked with achieving more substantive improvements in the next round of the Programme for International Student Assessment (PISA) testing, in 2018. Montenegro's national qualifications framework is harmonised with the European qualifications framework and implementation is ongoing. Activities for greater inclusion and improved support services for children with special needs should continue.

Amendments to the Law on higher education were adopted in June, establishing tuition-free enrolment for the first and second cycles and introducing 25 % practical training for all study programs. This is foreseen to lead to the eventual phasing out of the graduate traineeship programme. An agency for the control and quality assurance in higher education has been established and its statute has been adopted. At 34 % (30-34 year olds), tertiary education attainment compares well with the current EU average of 39.1 %. Latest data shows the employment rate of recent graduates is 59 %. Software introduced to prevent and combat plagiarism in higher education has yet to demonstrate positive results. This sector remains a high risk area for corruption.

Progress was achieved on vocational education and training (VET) to better meet labour market needs, through implementation of the newly developed dual education programme and the introduction of a system of vocational teacher placement in industry. Importantly, a related system of quality assurance and monitoring mechanisms needs to be ensured. New and revised VET curricula were introduced in the school year 2017/2018, accompanied by teacher training. Qualifications based on learning outcomes continue to be developed and scholarships are available for enrolment in deficit occupations. Enrolment from VET to higher education remains high. The 2018-2019 action plan on implementation of the strategy on vocational education development, along with the implementation report of the 2016-2017 action plan, was adopted in December 2017.

Good participation in Erasmus+ continues. Results from the 2017 international credit mobility strand report the successful participation of Montenegro, including 275 out-goers to EU and 166 in-comers to the country. The figures have been rising since the first call was published in 2015, with an overall of 1 236 students and staff benefiting from this strand. In Capacity Building in Higher Education, the institutions from Montenegro have actively participated in 12 projects over the last three calls, two of them as coordinating partners.

On **youth**, a new Directorate now operates within the Ministry of Sport. A youth centre was inaugurated in Podgorica in February 2017, which also serves as the local antenna of the Regional Youth Cooperation Office (RYCO). The youth strategy is in place, as well as the national strategy for employment and human resources development. Coordination on



horizontal issues affecting youth employment, inclusion, active citizenship, volunteering, and education needs to be ensured. More than 800 young participants benefited from one of the three Youth mobility actions since 2014 (mobility of youth workers, youth exchanges and the European Voluntary Service).

On **culture**, international cooperation was enhanced. The 2017 programme for protection and preservation of cultural assets was adopted in December 2016, while the 2017-2018 action plan to implement the programme for cultural development was adopted in February 2017. Montenegro continues implementation measures on the UNESCO Convention; due attention should be paid to preserving Kotor's UNESCO World Heritage status. Participation in the Creative Europe programme could be improved, with only 4 submitted applications in the last 4 calls without any selected project so far. The Ministry of Culture established a Creative Europe Desk as the implementing body for the Culture and MEDIA sub-programmes.

### **5.27. Chapter 27: Environment and climate change**

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

Montenegro has **some level of preparation** in this area. **Some progress** was made in further aligning legislation with the *acquis*. Significant efforts are still needed on implementation and enforcement, in particular on water quality, nature protection, and waste management.

In the coming year, Montenegro should in particular;

→ accelerate implementation of the national strategy for transposing, implementing and enforcing of the EU *acquis* on environment and climate change, especially in the waste and water sectors;

→ take measures to preserve and improve the ecological value of protected areas and potential Natura 2000 sites such as Ulcinj Salina, Lake Skadar and river courses;

→ start implementing the Paris Agreement, by implementing the national strategy and legislation on climate change, as well as related energy and transport policies;

### **Environment**

On **horizontal legislation**, further implementation of the national strategy and its action plan is needed. The lack of administrative capacity and financial resources at national and local level is delaying the implementation of the strategy. Cooperation with civil society has improved, but further efforts are needed to achieve effective public participation and consultation in decision-making. The level of legislative alignment on environmental impact assessment (EIA) and strategic environmental assessments is at an advanced stage. Better coordination is needed with the 'appropriate assessment' procedure under the Habitats Directive. Implementation of EIA and public consultations need to improve, especially at the local level. The implementation of the Environmental Crime and Environmental Liability Directives is at an early stage due to insufficient inspection and prosecution capacities. The law on infrastructure for spatial information was adopted in June 2017. The former Environmental Protection Agency was integrated into the Ministry of Sustainable Development and Tourism as Nature and Environmental Protection Agency (NEPA). Montenegro needs to ensure that the agency functions independently.

On **air quality**, the level of legislative alignment shows a good level of preparation. An action plan to implement the national strategy on air quality management for 2017-2020 was adopted, along with a report on its implementation between 2013 and 2016. On ambient air quality and cleaner air for Europe, a short term action plan to tackle air pollution in Pljevlja was adopted. However, implementation of the adopted action plans and the prescribed measures remains a challenge. Alignment with the EU requirements on sulphur content in liquid fuels further progressed. Work on further improving its monitoring system is ongoing.

On **waste management**, Montenegro is partially aligned with the *acquis*. No progress has been made in this area in the reporting period. The national strategy for waste management until 2030 and the national waste management plan 2015-2020 are in place. Considerable efforts are needed to implement them and Montenegro needs to decide on its basic waste management model. Affected municipalities need to remedy illegal waste disposal and the use of temporary waste disposal sites. Urgent action is needed to set up infrastructure for separate waste collection and recycling and to provide adequate financial and human resources, including for inspection activities.

Alignment in the area of **water quality** remains limited. The national strategy for water management until 2035 was adopted. The law on urban wastewater management was adopted in December 2016. The division of responsibilities in water quality between the Ministry of Sustainable Development and Tourism and the Ministry of Agriculture and Rural Development is operational. Work on river basin management plans is ongoing, but the competent management authorities are yet to be operational. A monitoring system for water status still needs to be established. Quality monitoring of surface and ground waters needs to be significantly improved. Wastewater has been identified as a main source of pollution. The decision to designate sensitive water areas in the Danube and Adriatic basins was adopted. The development of a floods hazard map and flood risk map has not yet started. The implementation of the Marine Strategy Framework Directive is at an early stage.

On **nature protection**, Montenegro is partially aligned with the *acquis*. Montenegro further aligned with the Habitats Directive and streamlined the institutional framework for designating future Natura 2000 sites, but still needs to strengthen administrative capacity to manage Natura 2000 in the future. Resolute and urgent action is needed to protect the potential Natura 2000 site Ulcinj Salina, including its full bird protection value. Potential investments in hydropower and touristic developments need to comply with nature protection requirements. Work for the identification and designation of marine protected areas needs to start. Enforcement and inspection capacity needs to be further strengthened, particularly through skills development.

On **industrial pollution and risk management**, Montenegro is partially aligned with the *acquis*. Five integrated permits have been issued so far. In October 2017, the Agency for nature protection refused the aluminium plant's request for issuing an integrated permit. Work has started for the rehabilitation and remediation of four ecological hot-spots.

On **chemicals**, Montenegro is partially aligned with the *acquis*. A new law on chemicals was adopted to further align with REACH and CLP regulations. Montenegro adopted the law ratifying the amendments to the Stockholm Convention on long-lasting organic pollutants, but full implementation of the Rotterdam and Stockholm Conventions is still pending. No national help desk has been established as a first point of contact for questions related to the CLP and REACH regulations and no centre for the control of chemical poisoning.

Montenegro needs to strengthen its professional and technical capacity on chemicals. For this the Nature and Environmental Protection Agency (NEPA) collaborates with ECHA.

On **noise**, Montenegro has fully aligned with the Noise Directive and works on the preparation of strategic noise maps.

On **civil protection**, Montenegro has been a member of the EU Civil Protection Mechanism since April 2015. It still needs to connect with the EU Civil Protection Mechanism Common Emergency Communication and Information System. The national strategy for emergency situation has been in place since 2006. The strategy for disaster risk reduction and corresponding action plan 2018-2023 was adopted.

### **Climate change**

The level of alignment is limited. Montenegro has its climate change strategy in place but needs to ensure consistency with the EU 2030 climate and energy policy framework and also its integration into all relevant sectoral policies and strategies.

As for the UN Framework Convention on Climate Change (UNFCCC), Montenegro has ratified the Paris Agreement. Subsequently, the National Council for Sustainable Development and Climate Change established a multi sectoral working group whose main task will be to monitor the implementation of the Paris Agreement. So far, it has submitted two national communications, and is working on the second bi-annual report.

Montenegro needs to draft its climate change law, which will, among other things, incorporate aspects of the EU emissions trading system (ETS), the Effort Sharing Regulation and the monitoring and reporting mechanism (MMR). Montenegro drafted guidelines to establish the ETS in the next three years. Secondary legislation on fuel economy, emissions from new cars and a greenhouse gases inventory was adopted, providing for partial alignment with the *acquis*. Further efforts are required to align with the climate *acquis*. Administrative capacity remains weak and poorly equipped to deal with the emerging challenges. The planned Eco Fund should also provide funding for low emissions projects.

### **5.28. 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** can be reported in the field of consumer protection in relation to regulatory alignment, partly addressing the recommendation made in the 2016 report. However progress on health protection with regard to the previous recommendations in this area and on consumer awareness has been limited.

In the coming year; Montenegro should in particular:

→ complete the alignment of national legislation with the EU consumer protection *acquis* and ensure the necessary implementation capacity;

→ ensure further alignment with EU health protection *acquis*, notably with regard to tobacco control and patients' rights in cross-border healthcare;

→ adopt and start implementing the foreseen Action Plans on communicable diseases and on substances of human origin.

National legislation is partly aligned to the EU *acquis* on **consumer protection**. On *product safety-related issues*, further amendments to the law on general product safety in early 2018 were made to align it with the EU *acquis*. However, the law on consumer protection requires further amendments to ensure full alignment with the EU *acquis*. Administrative and enforcement capacity needs improving to ensure correct implementation of all applicable laws. In September 2017, a 2017-2018 action plan for the national consumer protection programme was adopted. Greater public awareness of the banking ombudsman and the possibility to seek out-of-court settlements continue to be needed, as is additional support for civil society organisations.

Though market surveillance capacities need to be further enhanced (see Chapter 1), the number of inspections (safety and non-safety related) performed increased to 22 930, 5 550 irregularities and 210 types of hazardous products were found (total quantity of 15 042 items). Of these, 105 products (3 193 items) were permanently taken off the market, 63 products (707 items) were returned to the supplier/distributor, and 16 types of product (2 375 items) were destroyed. On *non-safety related issues*, more work is needed on raising consumer awareness and improving access to information on consumers' rights.

Regarding **public health**, national legislation on healthcare is partly aligned with the EU *acquis*. A law on health inspection was adopted in April 2017, designed to be aligned to EU *acquis*. Average life expectancy rose slightly from 76.1 to 76.6 between 2010 and 2016. The 2015-2020 **master plan for health development** is ongoing, its objective is to provide accessible and comprehensive health care. Although the country's final health budget in 2016 was 5.8 % of GDP, the lack of fiscal sustainability continued to impact negatively on the work of public health bodies, programmes and actions. The over-prescription of medicines continues, and the prescription of antibiotics needs to be strictly controlled to strengthen the fight against anti-microbial resistance. In regard to the **health information system**, the Law on Data Collection in the Field of Health establishes the parameters of health data protection. The Health Insurance Fund has developed an Integrated Information System (IIZS) which covers all health providers.

Regarding **tobacco control**, national legislation is partly aligned to EU *acquis* in this area and the smoking ban in public places is not implemented. Montenegro signed the WHO Framework Convention on Tobacco Control (FCTC) in 2006; it ratified the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products in October 2017.

On **blood, tissues, cells and organs**, Montenegro is partly aligned to the EU *acquis*. Legislation was adopted in 2016 designed to ensure further alignment on the transport, tractability, and the system of organs for transplants. However, the planned action plan on the field of substances of human origin needs to be finalised, adopted and implemented.

In the field of **serious cross-border health threats including communicable diseases**, alignment to EU *acquis* in the field of **communicable diseases** needs to be completed. The 2016 programme for mandatory immunisation against certain communicable diseases is ongoing. In early 2018, Montenegro adopted its action plan on communicable diseases 2017-2022, and nominated a contact to participate in the Health Security Meetings (serious cross-border health threats). However, it needs to do more to ensure funding regarding HIV/AIDS.

Regarding **patients' rights in cross-border healthcare**, the Health Insurance Act, which provides that an insured person has the right to use healthcare in EU Member States and third countries at the expense of compulsory health insurance, is partly aligned with the EU *acquis*.

The Institute for Public Health is responsible for **eHealth** issues. As concerns rare diseases national registries are partly established and a National Strategy for Rare Diseases 2013-2020 is being implemented, covering diagnosis, registration, treatment, awareness raising, and improved coordination.

**Health promotion** regarding **non-communicable diseases** remains weak, though a minimum set of indicators has been established for chronic non-communicable diseases to be monitored through the Regional Centre for Chronic Non-communicable Diseases. A 2017-2018 action plan for rare diseases was adopted in December 2016. With regard to national **cancer screening** programmes are being implemented on colon cancer, cervical cancer and on early detection and treatment of breast cancer. However, more needs to be done to ensure that children can be screened and/or treated while their rights are respected and cancer registries need to be established.

A 2017-2018 action plan to implement the strategy for improvement of **mental health** was adopted in December 2016. National data is not available regarding the proportion of mental health care ensured by institutions compared to community-based care.

No data is available in regard to **nutrition and physical activity**. Further efforts need to be made in the field of **alcohol and alcohol-induced disorder**. WHO reports indicate that the ban on alcohol product sales to minors is not being implemented; in September 2017 a 2017-2018 action plan was adopted in this regard.

On **drug abuse prevention and harm reduction**, a 2017-2018 action plan for the implementation of the strategy to prevent drug abuse was adopted in February 2017. The involvement of civil society in the National Council for the Prevention of Drug Abuse and in the National Commission on Drugs needs to be further enhanced and encouraged, as there is only one representative of civil society in both of these bodies.

On **health inequalities**, access to healthcare services needs to 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.

## **5.29. Chapter 29: Customs union**

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

Montenegro is **moderately prepared** for customs union and made **some progress** during the reporting period.

In the coming year; Montenegro should in particular:

→ advance preparations for accession to the Convention on a common transit procedure, in particular by establishing an EU-compatible computerised transit system;

→ implement capacity building and trade facilitation measures.

On **customs legislation**, the degree of alignment is high. Amendments to the customs code were adopted in October 2017 to prepare for accession to the Convention on a common transit procedure and the Convention on the facilitation of trade in goods, in line with the 2016 recommendation. These amendments also include the criteria for authorised economic operators and the abolition of the 'negative list' for the acquisition of non-preferential origin. The Regional Convention on Pan-Euro-Mediterranean preferential rules of origin is applied in



Montenegro, including diagonal cumulation of origin. The Decree on the customs treatment of goods with reasonable suspicion of infringing intellectual property rights, aligning with applicable EU rules, is in force since January 2017. In October 2017, Montenegro ratified the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products. Montenegro also adopted amendments to the law on customs service to strengthen operational rules for monitoring, intercepting and examining vehicles, passengers and baggage. In December 2017, Montenegro adopted a decree on the customs tariffs.

Further harmonisation is needed on transit, drug precursors, security aspects, and on export control for cultural goods. Montenegrin customs rules also include a number of customs exemptions that are not included in the Union Customs Code. Moreover, customs inland terminals are located in privately owned facilities charging a fee to every lorry required to enter the terminal to discharge customs obligations. Such fees are not in line with the *acquis*.

On **administrative and operational capacity**, in October 2017, the government adopted a new rulebook on internal organisation and systematisation for the customs administration, with a view to establishing, *inter alia*, a group for transit and a new computerised transit system, a customer helpdesk, and to strengthening post-clearance and internal audit control units. The customs administration implements the business strategy 2016-2018 and a customs IT strategy, but staffing of the IT department remains an issue. The customs administration's training strategy 2016-2018 is based on the EU competences framework. Customs integrity plans are being implemented and preparations for the accreditation of the customs laboratory are ongoing.

Montenegro is encouraged to promote a more service-oriented organisational culture in its customs services and to strengthen efforts to expand the use of its trade facilitation instruments. First authorisations for simplified procedures were granted to economic operators. The customs administration is a member of the coordination team for the implementation of intellectual property rights. The customs administration faces significant challenges in controlling the illicit tobacco trade, in particular the transit through the Port of Bar free zone, and should continue to develop its international cooperation in this regard. Revenue collection in 2017 shows an 18 % increase compared to 2016.

### **5.30. 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**. **Some progress** was made on the legislative and institutional setup for international development cooperation and humanitarian aid. The legislative basis has been set for issuance and financing of export credits.

In the coming year; Montenegro should in particular:

- adopt legislation, in line with the *acquis*, on export controls of dual-use goods;
- strengthen the administrative capacity of the Directorate within the Ministry of Economy responsible for trade with the EU, CEFTA and work within the WTO framework, in particular in view of a smooth implementation of the Regional Economic Area Multi-annual Action Plan;
- adopt a legislative and strategic framework, in line with the *acquis*, on development

policy and humanitarian aid; and develop a database of donor support.

As regards the **common commercial policy**, Montenegro continued to coordinate its positions and align its policies closely with those of the EU, including within the WTO. It ratified the WTO Trade Facilitation Agreement and notified its list of commitments, which now need to be carefully reviewed in order to speed up implementation. In addition, Montenegro needs to submit the notifications required under Articles 1.4, 10.6.2 and 12.2.2 of the WTO Trade Facilitation Agreement. The first review of Montenegro's trade policies and practices by the WTO was initiated in March 2017 and will be ongoing in 2018.

Montenegro aligned its national control list of **dual-use goods** with the 2015 EU regime of exports, transfer, brokering and transit of dual-use items in October 2016. Further alignment with the *acquis* on export controls of dual-use goods remains to be completed. Administrative and control capacity should be further improved. Montenegro's application to the Wassenaar Arrangement is currently under examination.

The law on foreign trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment was adopted in December 2017 to further align with the *acquis* in this area. Montenegro also has legislation aimed at implementing the **Kimberley Process** certification procedure, including penalty provisions.

Amendments to the law on investment and development fund were adopted in November 2017, aimed at regulating the issuance and financing of **export credits**.

Montenegro continued its active participation in the Central European Free Trade Agreement (CEFTA). The law on ratification of Additional Protocol 5 on trade facilitation within CEFTA was adopted in December 2017, and entered into force in January 2018. Under the optimisation plan (*see the public administration reform section*), Montenegro should ensure the necessary administrative capacity at the Ministry of Economy concerning trade with the EU, CEFTA, and work within the WTO framework.

Montenegro is negotiating bilateral investment agreements with San Marino, Croatia, Romania, Bulgaria, Portugal, Norway, Iran, Algeria, Thailand, Kosovo, Bosnia and Herzegovina and Canada. Montenegro needs to ensure the compatibility of its bilateral investment treaties with the EU *acquis*.

On **development policy and humanitarian aid**, a department for development cooperation and humanitarian aid has been established within the Ministry of Foreign Affairs, as well as an inter-ministerial working group which includes representatives of the state administration, civil society and businesses community. A related legislative and strategic framework is under preparation. Additional funds from the budget will be needed to implement the law. Initial steps have been taken to develop a database of donor support projects (received and provided) using the OECD Development Assistance Committee methodology.

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

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

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

Montenegro has a **good level of preparation**. **Some progress** was made through the adoption

of amendments to the law on international **restrictive measures**. 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. Montenegro's foreign affairs and defence ministries have sufficient structures in place to be able to participate in the common foreign and security policy and the common security and defence policy. (For more information on developments in bilateral relations with other enlargement countries and EU Member States, *see Political criteria — Regional issues and international obligations*.)

On the **common foreign and security policy (CFSP)**, Montenegro supported the Global Strategy for the European Union's Foreign and Security Policy. Montenegro aligned, when invited, with all relevant EU declarations and Council decisions (100 % alignment) during the reporting period. Amendments to the law on international *restrictive measures* were adopted in June 2017, introducing a system of automatism to the procedure of freezing assets of persons from the national list and prescribing the setting up of a national list of legal and natural persons designated as terrorists (or their financiers), as well as the criteria on the basis of which legal or natural persons can be designated as terrorists. As a Party to the Rome Statute, Montenegro needs to align with the EU position on the integrity of the Rome Statute and bilateral immunity agreements. (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**. An action plan for the implementation of the 2016-2020 Strategy for non-proliferation of weapons of mass destruction was adopted in June, and a national coordination body responsible for monitoring its implementation was formed in July.

Montenegro has a strategy with Action Plan (2013-2018) for the control and reduction of Small Arms and Light Weapons (SALW) and ammunition, and a related national registration system and database. Montenegro is also implementing a project on SALW demilitarisation and safe storage in conjunction with UNDP and OSCE.

Regarding **cooperation with international organisations**, Montenegro became the 29<sup>th</sup> NATO Member State on 5 June 2017.

On **security measures**, the EU-Montenegro security agreement on the exchange and protection of classified information continued to be implemented smoothly. Montenegro should continue to align with the EU security rules.

Montenegro continued to actively participate in **military crisis management** missions under the **common security and defence policy (CSDP)** notably EUTM Mali and EU NAVFOR Atalanta. Montenegro also took part in UN operations, notably UNFICYP and MINURSO, and 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.

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

*The EU promotes the reform of national governance systems to enhance managerial accountability and sound financial management of income and expenditure as well as*

*external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and the euro against counterfeiting.*

Montenegro is **moderately prepared** on financial control. There was **some progress** overall, and good progress especially on internal and external audit. Further efforts are necessary to increase awareness of the importance of managerial accountability and internal control and to strengthen implementation. The 2016 recommendations remain valid, especially with regard to managerial accountability.

In the coming year, Montenegro should in particular:

→ ensure a government-level agreement on the definition and approach to managerial accountability, including how it applies to institutional responsibilities, resource allocation, reporting on the achievement of objectives, and financial management, and start its implementation throughout the public administration;

→ ensure adoption of the external audit methodology that fully complies with the International Standards of Supreme Audit Institutions (ISSAIs);

→ significantly strengthen the coordination capacity of the National Anti-fraud Coordination Service and establish a solid track record on investigations and reporting of irregularities.

### **Public internal financial control**

The **strategic framework** is broadly in place. Internal control and elements of managerial accountability are addressed in the public administration reform strategy and public financial management reform programme, but Montenegro still needs to adopt a policy paper, which presents a clear approach to managerial accountability and how it should apply in different parts of the administration. A mechanism for effective coordination, monitoring and reporting of the public administration, public financial management and PIFC (Public Internal Financial Control) reforms needs to be still put in place.

**Managerial accountability** still needs to be fully embedded in the administrative culture of the public sector. While basic accountability mechanisms between ministries and subordinate bodies are in place, effective management of subordinate bodies is not fully ensured. Basic mechanisms for planning, budgeting and reporting on the activities of central government bodies are in place, but performance management has not progressed. Medium-term strategic planning is weak and not linked to the government work programme, though work has started to improve this. Annual plans and reports often remain process-oriented, and not linked to specific and measurable objectives, indicators or targets. Financial variations from targets are often not reported. Decision-making and budgetary powers within institutions are rarely delegated (*see Public Administration Reform*).

Public sector **internal control implementation** is regulated in line with the standards of the Committee of Sponsoring Organisations (COSO) and the guidelines of the International Organisation of Supreme Audit Institutions (INTOSAI). Irregularity management needs to be regulated. Implementation of internal control is uneven, though more institutions have adopted annual financial management and control action plans. Risk management procedures are improving but they are still not fully incorporated in the governance processes. The centralised budget inspection function is still not adequately staffed or fully operational.

**Internal audit practice** is regulated in line with the international standards and is organised on a decentralised basis. Most public-sector entities have established internal audit functions,

though few meet national legal requirements. The availability of qualified auditors has substantially increased thanks to the provision of training programmes compliant with international audit standards. Internal audit units perform mainly system, financial and compliance audits, and capacity for IT and performance audit work is improving. Most internal audit units have adopted strategic and annual internal audit plans. The number of recommendations and their rate of implementation are increasing.

The **Central Harmonisation Unit** in the Ministry of Finance is responsible for methodological guidance, training and monitoring of implementation. It performs quality assessments at both central and local levels. It reports annually on PIFC implementation to the government, which then adopts conclusions and recommendations for the next period.

### **External audit**

Montenegro's **constitutional and legal framework** ensures independence of the State Audit Institution (SAI) in line with INTOSAI standards. The president and four members of the senate, two of whom were appointed during the reporting period, have immunity by virtue of their office. The law provides that they cannot be members of a political party or perform other professional activity.

The SAI's **institutional capacity** continues to be problematic. The SAI cannot fully cover its exhaustive audit mandate with the current staffing level. During the reporting period the SAI hired 6 new audit staff, bringing the total number of auditors to 45 (out of the total of 65 staff). The SAI has recently adopted its 2018-22 strategic development plan.

To improve the **quality of audit work**, the SAI has approved a methodology for auditing the Final Statement of Accounts of the State Budget of Montenegro and a new performance audit manual. It also has adopted guidelines for audit quality control and assurance. However, it has not yet developed fully ISSAI compliant methodology to guide the work of auditors. The SAI works according to annual audit plans and performs activities in accordance with a professional code of ethics.

On the **impact of audit work**, the designated parliamentary committee considers the draft budget along with information from the SAI and the Central Bank. All SAI audit reports are published. The SAI reports to the Parliament on its audit work and other activities in its annual report. However, SAI rarely submits individual audit reports to parliament - only 5 out of 41 audit reports were submitted to it in 2016. Parliament only makes limited use of the SAI report, but it requires the government to report on implementation of the SAI's recommendations regarding the Final Statement of Accounts.

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

Montenegro's legislation is largely **aligned with the *acquis***, though it needs to assess how its legislation complies with the new EU Directive on the fight against fraud to the Union's financial interests by means of a criminal law. The national **anti-fraud coordination service (AFCOS)** implements a strategy to fight fraud and manage irregularities since 2015. The capacity of AFCOS to coordinate 13 institutions in the AFCOS network is improving but needs to be further strengthened. Montenegro **cooperates with the European Commission** and is connected to the Irregularity Management System. However, so far no cases have been reported through the system. Montenegro still needs to establish a solid track record on investigations and reporting on irregularities.



## Protection of the euro against counterfeiting

Montenegro has a high level of **acquis alignment**, and it has ensured ratification of the Geneva Convention for the suppression of counterfeiting currency. The Central Bank ensures the required administrative structures and capacity for **technical analysis** and classification of counterfeited euro notes and coins. It systematically provides training for the police and cash handlers. The Central Bank implements **cooperation** agreements signed with the European Commission and the European Central Bank and actively cooperate with a number of EU Member States' central banks. Montenegro takes part in the actions of the Pericles 2020 programme.

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

*This chapter covers the rules governing the funding of the EU budget ("own resources"). These resources mainly consist of i) contributions based on the gross national income of each Member State; ii) customs duties; and iii) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately co-ordinate and ensure the correct calculation, collection, payment and control of own resources.*

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

In the coming year, Montenegro should in particular:

- advance the alignment of the legal framework and rules of administration for the own resources system; and respect commitments made in the framework of the technical assistance and own resources monitoring program;
- ensure the updating and implementation of the own resources system action plan;
- further strengthen the capacities of the Directorate for Coordination and Management of Own Resources of the EU and of all institutions involved in the own resources system.

Montenegro's legal framework for the own resources system is partly aligned with the EU *acquis*.

As regards **traditional own resources**, Montenegro's collection, accounting and control procedures to clearly and accurately establish and account for the customs debt are only partly aligned with the EU *acquis*. No separate accounts are in place for outstanding debts or for guaranteed but contested debts. The implementation of the own resources system action plan is behind schedule and the requested revised action plan has not yet been delivered. On **value-added tax-based resource**, the law on VAT is aligned with the EU *acquis*. Software is in place to facilitate the entry and processing of returns, mathematical and logical controls as well as the productions of various reports and statistical surveys. However, substantial efforts are needed to calculate the statistical VAT base, the weighted average rate and compensations to the VAT base to ensure a harmonised base with the EU. On the **gross national income-based resource**, the Statistical Office regularly produces and publishes data on the GNI, in accordance with the ESA 2010 methodology and in line with the EU *acquis*. The balance of payments is compiled in accordance with the new methodology of the International Monetary Fund and EU *acquis*. The estimate of the non-observed economy is partially included in the GDP calculation.

As regards **administrative infrastructure**, a Directorate for Coordination and Management of Own Resources of the EU has been established within the Ministry of Finance to steer and streamline own resources pre-accession preparations. Its administrative capacities were strengthened through recruitments during the reporting period. However, sufficient staff should be allocated to accelerate the own resources administrative preparations.

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

Within the framework of the **accession negotiations**, by February 2018, 30 chapters, including chapters 23 and 24 on the rule of law, had been opened, 3 of which, i.e. science and research, education and culture and external relations, have been provisionally closed.

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

Regular political and economic dialogue between the EU and Montenegro has continued through the SAA structures. The Stabilisation and Association Council met in June 2017 and the Stabilisation and Association Committee in December 2016 and 2017. Regular subcommittee meetings have been held throughout the period. Two meetings of the Stabilisation and Association Parliamentary Committee were held, in June 2017 and December 2017.

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 23 May 2017, where joint recommendations were adopted.

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

EU 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 is now largely completed. The implementation of the IPA Components I and II was managed by the EU Delegation in Podgorica, while management for components III and IV was conferred to Montenegro.

Montenegro is currently benefitting from pre-accession assistance with an indicative allocation of EUR 270.5 million for the period 2014-2020, out of which more than EUR 152 million has been already programmed in the period 2014-2017 based on the priorities set out in the Indicative Strategy Paper. The 2017 action programme provided EUR 33.85 million for reforms in the area of public administration reform and transport addressing key requirements of the accession negotiations.

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

Montenegro continues to benefit from participation in the following EU programmes, with IPA support: Erasmus+, Creative Europe (Culture and Media strands), Employment and

Social Innovation, Horizon 2020, Customs 2020, Fiscalis 2020, Competitiveness of Enterprises and Small and Medium-Sized Enterprises Programme (COSME).

## Annex II – Statistical annex

STATISTICAL DATA (as of 16.02.2018)

### Montenegro

Basic data	Note	2005	2012	2013	2014	2015	2016
Population (thousand)		613	620	621	622	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	2005	2012	2013	2014	2015	2016
Gross domestic product (GDP) (million euro)		:	3 182	3 363	3 458	3 655	3 954
GDP (euro per capita)		2 912	5 126	5 413	5 563	5 827	6 355
GDP per capita (in purchasing power standards (PPS))		7 000	10 500	10 900	11 300	12 200	13 000
GDP per capita (in PPS), relative to the EU average (EU-28 = 100)		30	39	41	41	42	45
Real GDP growth rate: change on previous year of GDP volume (%)		:	-2.7	3.5	1.8	3.4	2.9
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	:	:	:	:	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2010 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-28 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		:	8.9	9.8	10.0	9.7	9.0
Industry (%)		:	12.2	14.3	13.5	12.8	12.3
Construction (%)		:	5.5	4.5	4.2	4.5	6.8
Services (%)		:	73.4	71.4	72.3	73.0	71.9
Final consumption expenditure, as a share of GDP (%)		:	103.8	100.5	99.6	98.4	96.4
Gross fixed capital formation, as a share of GDP (%)		:	19.8	20.2	19.0	20.1	23.2
Changes in inventories, as a share of GDP (%)		:	0.8	-0.6	1.2	-0.1	2.9



Exports of goods and services, relative to GDP (%)		:	43.7	41.3	40.1	42.1	40.5
Imports of goods and services, relative to GDP (%)		:	68.1	61.4	60.0	60.6	62.9
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

<b>Business</b>	Note	2005	2012	2013	2014	2015	2016
Industrial production volume index (2010 = 100)		126.9	83.5	92.3	81.8	88.3	84.4
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 (%)		:	11.8	16.2	14.5	14.9	13.1
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	4.6	4.3	9.1	7.6	6.1
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		:	:	:	:	:	:
Value added by SMEs (in the non-financial business economy) (EUR million)		:	764	811	869	912	1 071
Total value added (in the non-financial business economy) (EUR million)		:	1 133	1 271	1 308	1 336	1 530

<b>Inflation rate and house prices</b>	Note	2005	2012	2013	2014	2015	2016
Harmonised consumer price index (HICP), change relative to the previous year (%)	1)	3.4	4.0	1.8	-0.5	1.4	0.1
**Annual change in the deflated house price index (2010 = 100)		:	:	:	:	:	:

<b>Balance of payments</b>	Note	2005	2012	2013	2014	2015	2016
Balance of payments: current account total (million euro)	2)	-302	-588	-487	-526	-483	-715
Balance of payments current account: trade balance (million euro)	2)	-642	-1 384	-1 329	-1 376	-1 464	-1 657
Balance of payments current account: net services (million euro)	2)	173	613	653	690	789	769
Balance of payments current account: net balance for primary income (million euro)	2)	20	54	66	46	93	53
Balance of payments current account: net balance for secondary income (million euro)	2)	147	130	123	114	99	120

Net balance for primary and secondary income: of which government transfers (million euro)	2) 3)	6	18	22	24	4	24
**3 year backward moving average of the current account balance relative to GDP (%)		:	-19.6	-16.8	-16.0	-14.3	-15.5
**Five year change in share of world exports of goods and services (%)		:	:	:	:	:	:
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)	2)	399.0	461.6	323.9	353.9	619.3	371.6
Foreign direct investment (FDI) abroad (million euro)	2)	3.6	20.8	13.0	20.7	11.1	-167.0
of which FDI of the reporting economy in the EU-28 countries (million euro)	2)	3.3	20.6	11.1	14.9	8.8	-1.8
Foreign direct investment (FDI) in the reporting economy (million euro)	2)	402.6	482.4	336.9	374.6	630.3	204.5
of which FDI of the EU-28 countries in the reporting economy (million euro)	2)	337.7	219.7	79.8	117.4	411.8	-34.4
**Net international investment position, relative to GDP (%)		:	:	:	:	:	:
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		:	12.2	8.4	1.9	0.0	-7.4

<b>Public finance</b>	Note	2005	2012	2013	2014	2015	2016
***General government deficit / surplus, relative to GDP (%)		-1.6u	-5.7	-5.2	-3.1	-7.4	-2.8
***General government gross debt relative to GDP (%)		38.6	53.4	57.5	59.9	66.2	64.4
Total government revenues, as a percentage of GDP (%)		39.9	40.7	42.6	44.8	41.7	42.6
Total government expenditure, as a percentage of GDP (%)		41.5	45.0	47.2	47.7	50.0	46.2

<b>Financial indicators</b>	Note	2005	2012	2013	2014	2015	2016
Gross external debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:
Gross external debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	4)	351	:	:	:	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	5)	615	:	:	:	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)	6)	867	:	:	:	:	:

Total credit by monetary financial institutions to residents (consolidated) (million euro)	7)	374	1 842	1 985	1 929	1 956	2 075
**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 (%)	8)	12.11	9.47	9.36	9.22	8.53	7.45
Deposit interest rate (one year), per annum (%)	8)	:	3.23	2.54	1.86	1.23	0.93
Euro exchange rates: average of period (1 euro = ... national currency)		1	1	1	1	1	1
Trade-weighted effective exchange rate index, 42 countries (2005 = 100)		:	:	:	:	:	:
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2005 = 100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		173	348	424	545	674	803

<b>External trade in goods</b>	Note	2005	2012	2013	2014	2015	2016
Value of imports: all goods, all partners (million euro)		874	1 821	1 773	1 784	1 842	2 062
Value of exports: all goods, all partners (million euro)		406	367	376	333	317	326
Trade balance: all goods, all partners (million euro)		-468	-1 454	-1 398	-1 451	-1 524	-1 736
Terms of trade (export price index / import price index * 100) (number)	9)	:	96	102	101	101	98
Share of exports to EU-28 countries in value of total exports (%)		62.3	51.5	41.5	35.7	35.6	37.4
Share of imports from EU-28 countries in value of total imports (%)		53.8	44.5	44.2	45.8	41.3	48.2

<b>Demography</b>	Note	2005	2012	2013	2014	2015	2016
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		2.5	2.5b	2.5	2.4	1.7	1.8

Infant mortality rate deaths of children under one year of age (per thousand live births)		8.4	4.4	4.4	4.9	2.2	:
Life expectancy at birth: male (years)		71.3	74.2	74.1	74.1	74.4	:
Life expectancy at birth: female (years)		76.8	78.3	79.0	78.9	78.6	:

<b>Labour market</b>	Not e	2005	2012	2013	2014	2015	2016
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		:	64.8	65.1	67.6	68.5	69.1
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		:	50.9	52.6	55.6	56.7	57.1
Male employment rate for persons aged 20–64 (%)		:	56.8	57.8	61.4	61.9	51.3
Female employment rate for persons aged 20–64 (%)		:	45.0	47.5	49.4	51.5	63.0
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		:	37.6	38.7	38.7	40.0	41.2
Employment by main sectors							
Agriculture, forestry and fisheries (%)		:	5.7	4.5	5.7	7.7	7.7
Industry (%)		:	11.7	11.9	11.1	10.8	9.8
Construction (%)		:	5.7	5.9	6.5	6.6	7.7
Services (%)		:	76.9	77.7	76.8	74.8	74.8
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	10)	:	34.7	36.0	32.8	32.4	31.2
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	11)	:	47.1	47.7	48.2	46.6	47.0
Unemployment rate: proportion of the labour force that is unemployed (%)		30.3	19.7	19.5	18.0	17.5	17.8
Male unemployment rate (%)		:	19.3	20.1	17.8	17.7	18.3
Female unemployment rate (%)		:	20.3	18.8	18.2	17.3	17.1
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		:	43.7	41.6	35.8	37.6	35.9
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		:	15.6	16.0	14.0	13.6	13.4
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)		:	36.4	39.7	32.8	28.7	22.1

Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		:	10.3	9.0	9.0	9.4	11.5
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<b>Social cohesion</b>	Not e	2005	2012	2013	2014	2015	2016
Average nominal monthly wages and salaries (national currency)		195	484	487	479	480	499
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2010 = 100)		61.8	94.8	91.2	91.4	90.6	94.4
GINI coefficient	12)	26	26	26	:	:	:
Poverty gap	12)	2.1	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 (%)		:	6.6	5.1	5.1	5.7	5.5

<b>Standard of living</b>	Not e	2005	2012	2013	2014	2015	2016
Number of passenger cars relative to population size (number per thousand population)		193.9	280.3	288.3	280.1	282.8	296.9
Number of mobile phone subscriptions relative to population size (number per thousand population)		872.0	1 595.0	1 605.4	1 630.3	1 620.1	1 632.5
Mobile broadband penetration (per 100 inhabitants)		:	10	13	10	9	9
Fixed broadband penetration (per 100 inhabitants)		:	14	15	17	18	19

<b>Infrastructure</b>	Not e	2005	2012	2013	2014	2015	2016
Density of railway network (lines in operation per thousand km <sup>2</sup> )	13)	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>	Not e	2005	2012	2013	2014	2015	2016
Public expenditure on education relative to GDP (%)		:	:	:	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)		:	:	0.37	0.36	0.37	:



Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	:	:	:	:
Percentage of households who have internet access at home (%)		:	55.0e	55.8e	63.6e	67.5e	69.8e

<b>Environment</b>	Not e	2005	2012	2013	2014	2015	2016
*Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)		82.0	68.2	60.7	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2010 constant prices)		:	341.0	306.1	294.6	301.1	280.6
Electricity generated from renewable sources relative to gross electricity consumption (%)		40.2	36.6	72.3	52.2	43.1	54.4
Road share of inland freight transport (based on tonne-km) (%)	14)	31.5	51.0	100.0b	100.0	100.0	100.0

<b>Energy</b>	Not e	2005	2012	2013	2014	2015	2016
Primary production of all energy products (thousand TOE)		593	704	762	692	717	660
Primary production of crude oil (thousand TOE)		:	:	:	:	:	:
Primary production of solid fuels (thousand TOE)		287	393	372	364	390	308
Primary production of gas (thousand TOE)		0	0	0	0	0	:
Net imports of all energy products (thousand TOE)		436	366	233	291	306	342
Gross inland energy consumption (thousand TOE)		1 035	1 070	995	975	1 030	988
Gross electricity generation (GWh)		2 864	2 844	3 945	3 173	3 003	3 141

<b>Agriculture</b>	Not e	2005	2012	2013	2014	2015	2016
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)	15)	517p	223b	223	230	231	256p
Livestock numbers: live bovine animals (thousand heads, end of period)	16)	118	85	89	94	92	89p
Livestock numbers: live swine (thousand heads, end of period)	16)	11	18	21	22	25	56p

Livestock numbers: live sheep and live goats (thousand heads, end of period)	16)	:	230	220	237	224	223p
Raw milk available on farms (thousand tonnes)	17)	186	159	182	192	183	181
Harvested crop production: cereals (including rice) (thousand tonnes)		:	5	8	8	7	8p
Harvested crop production: sugar beet (thousand tonnes)		:	0	0	0	0	0
Harvested crop production: vegetables (thousand tonnes)	18)	:	34	42	44	51	43p

: = not available

b = break in series

e = estimate

p = provisional

s = Eurostat estimate

u = low reliability

\* = Europe 2020 indicator

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

\*\*\* = The government deficit and debt data of enlargement countries are published on an "as is" basis and without any assurance as regards their quality and adherence to ESA rules.

#### Footnotes

- 1) 2005: consumer price index.
- 2) 2005: based on balance of payments manual edition 5 (BPM5).
- 3) Secondary income only.
- 4) 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.
- 5) 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.
- 6) 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.
- 7) 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).
- 8) Weighted average effective interest rate, outstanding amounts.
- 9) Calculated from indices with the previous year as the reference year (= 100).
- 10) Data of NGOs are excluded. Number of employees in the public sector as a share of the total number of persons employed.

- 11) Comprises data of private companies or enterprises, entrepreneurs and private households. Number of employees in the private sector as a share of the total number of persons employed.
- 12) 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>.
- 13) Density relative to the total area (including inland waters) rather than the land area.
- 14) 2005 and 2012: total freight traffic (national territory and international transport).
- 15) 2005: based on the reports of agricultural organisations (agricultural enterprises and cooperatives) engaged in crop production and estimates for private agricultural holdings.
- 16) Including livestock held by enterprises, cooperatives and households.
- 17) In million litres. Net quantity, from enterprises, cooperatives and households.
- 18) 2014 and 2015: including the production of kitchen gardens.