

STABILISATION AND ASSOCIATION
BETWEEN
THE EUROPEAN UNION
AND MONTENEGRO

The Stabilisation and Association Council

Brussels, 28 June 2019
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COVER NOTE

Subject: Tenth meeting of the EU-Montenegro Stabilisation and Association Council
(Brussels, 27 June 2019)

Delegations will find attached the position paper of the European Union tabled on the occasion of the 10th meeting of the Stabilisation and Association Council between the European Union and Montenegro.

**TENTH MEETING OF THE EU-MONTENEGRO
STABILISATION AND ASSOCIATION COUNCIL**

Brussels, 27 June 2019

POSITION OF THE EUROPEAN UNION

The European Union welcomes the holding of the 10th meeting of the EU–Montenegro Stabilisation and Association (SA) Council. The EU considers this meeting of the SA Council to provide a timely opportunity to review Montenegro's progress in the preparations for membership, following the publication in May 2019 of the Commission's Montenegro Report, the Stabilisation and Association Committee of December 2018, and the various Sub-committees held since the last SA Council meeting.

Item 1. Adoption of the Agenda

Item 2. Approval of the Minutes of the ninth meeting of the Stabilisation and Association Council on 25 June 2018

Item 3. Relations under the Stabilisation and Association Process

3.1. Accession strategy, in particular in the light of the Commission's 2019 Montenegro Report

The EU welcomes the opening of two negotiating chapters since the last SA Council, bringing the total number of Chapters opened to 32, three of which have been provisionally closed.

Opening, or Closing Benchmarks have been set for all the chapters, except the rule of law Chapters, where Interim Benchmarks have been set. The EU encourages Montenegro to continue work on meeting all the benchmarks and stresses that Montenegro should now step up its reform efforts on meeting the Interim Benchmarks for Chapters 23 and 24 and addressing the identified shortcomings.

The EU welcomes improvement of the legal, institutional and financial framework under which civil society organisations operate overall, but underlined that a genuine inclusion of civil society and other relevant and interested stakeholders in the policy-making process, both at central and local level, remains to be ensured in practice. More needs to be done to take gender into account in policymaking and budget setting.

It encourages Montenegro to continue focusing on implementation of the fundamentals of the EU accession process: the rule of law, economic governance and public administration reform.

Political Criteria

The EU notes that Montenegro has continued to sufficiently meet the Political Criteria.

The period continued to be marked by the low level of trust in the electoral framework, and prolonged boycott of Parliament by parts of the opposition since last parliamentary elections in October 2016. Allegations of corruption and illegal political party financing have triggered civic protests, attempts at extra-parliamentary dialogue and calls for formation of a technical government. These allegations require a credible, independent and effective institutional response.

The EU reiterates that returning the political debate to Parliament is the responsibility of all political actors. The EU also notes that local elections still do not take place on the same day nationwide.

The EU recalls the importance of a comprehensive reform of the electoral framework and of addressing the recommendations of the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR). The temporary parliamentary committee for reform of electoral and other legislation set up in October 2018 has yet to deliver on its agenda through cross-party dialogue.

The EU recalls that progress on rule of law chapters, demonstrated by tangible results, will continue to determine the overall pace of accession negotiations.

In May 2019, the European Commission provided its latest assessment of progress made in the implementation of the Action Plans for rule of law chapters 23 and 24, and in advancing on the interim benchmarks set in the framework of the negotiations. The assessment concludes that Montenegro has come a long way in reforming its legal and institutional framework in this area, and has achieved initial results in most areas.

The EU observes that Montenegro's overall priority in the accession negotiations, and the next important step ahead, is the fulfilment of the rule of law interim benchmarks set under chapters 23 and 24.

The EU therefore encourages Montenegro to further focus and intensify efforts towards meeting the remaining interim benchmarks set for chapters 23 and 24, in particular by addressing the remaining shortcomings in the critical areas, such as media freedom, fight against corruption, and trafficking in human beings. It stresses that concrete results in the area of rule of law are now crucial.

The EU regrets that concerns persist with regard to freedom of expression and the overall climate of media freedom, with particular regard to investigations into attacks against journalists and political pressure on the public broadcaster RTCG. The EU calls on the authorities to show unwavering respect for freedom of expression and to refrain from making statements that are not in line with creating an environment conducive to investigative journalism and media freedom in general. The EU recalls that the authorities hold a crucial responsibility in actively contributing to the unimpeded exercise of freedom of expression, including by showing firm support to independent bodies, independent journalists, media workers, and by promptly reacting to and publicly condemning hate speech and threats. While noting that there have been some developments on the investigation into the May 2018 shooting of an investigative journalist, the EU calls on Montenegro to step up significantly its efforts to credibly resolve all cases of attacks against journalists, and identify not only the material perpetrators but also those behind the attacks, as well as the shortcomings and delays in the investigation. There must be no impunity and the safety of journalists and civil society representatives must be ensured. The EU expects Montenegro to fully implement the recommendations issued by the ad-hoc commission monitoring violence against media.

The public broadcaster RTCG and all media bodies and regulators should be shielded from undue influence and political pressure and their financial and editorial independence ensured. The EU encourages Montenegro to support the establishment of effective self-regulatory mechanisms. The EU acknowledges Montenegro's efforts to revise the media legislation. The EU expects that all laws governing the media sector are prepared in an inclusive, coherent and coordinated manner, and that alignment with the EU *acquis* and international standards is ensured.

In the field of Public Administration, the EU welcomes the adoption of the secondary legislation required to implement the laws on civil servants and state employees and on local self-government. Their implementation is a key step to ensure merit-based recruitment and depoliticisation across the public sector. The EU notes limited initial results of the optimisation of the state administration, and encourages Montenegro to fully and efficiently advance on this process in order to ensure a modern public service that is able to take forward the EU accession process, and to ensure the financial sustainability of reforms. The EU welcomes the adoption of the decree and methodology to ensure the consistency and coordination of sector strategies, and the active role of the General Secretariat of the Government in ensuring its implementation in line with the Principles of Public Administration, and the rationalisation of the state administration following the adoption of the law on state administration. The EU urges Montenegro to ensure that inclusive public consultations are properly conducted in order to improve citizens' and civil society's participation in policy-making, and to effectively address the delegation of decision-making and managerial accountability. The EU recalls that ensuring access to information is crucial for ensuring more transparency and accountability of public service and expects the legal framework on access to information to be reviewed and thoroughly implemented in accordance with international standards.

As regards Public Financial Management (PFM), the EU notes the start of the implementation of some of the delayed reforms under the PFM Reform Programme 2016-2020. It welcomes Montenegro's efforts to improve budget transparency by publishing the budget proposal, the final budget and the execution reports. The EU encourages Montenegro to participate in the Open Budget Index survey, and to develop a citizens' budget.

The EU commends Montenegro for its continued commitment to regional cooperation and its constructive role in maintaining regional stability. The EU welcomes Montenegro's active participation in numerous regional initiatives in South Eastern Europe and the good bilateral relations it entertains with neighbours. It notes that Montenegro progressed in implementing the multiannual action plan (MAP) for the development of the Regional Economic Area in the Western Balkans and the Connectivity Reform Measures. The EU takes note of the ongoing activities towards finding mutually acceptable solutions to pending border and other open issues with its neighbours in line with international law, good neighbourly relations and established principles. The EU notes that with the signing of the remaining bilateral convention on regional cooperation under Article 15 of the Stabilisation and Association Agreement (SAA) with Kosovo* in March 2019, Montenegro has now signed these bilateral conventions with all partners with an SAA in force.

The EU strongly commends Montenegro for its consistent cooperation on foreign policy issues, and in particular its full alignment with the EU Common Foreign and Security Policy

The EU recalls that the 2007 bilateral immunity agreement with the United States of America does not comply with the EU Common Position on the integrity of the Rome Statute or with the related EU guiding principles on bilateral immunity agreements, and that Montenegro needs to align with the EU position before accession to the EU.

Economic criteria

The EU welcomes the submission by Montenegro, on 31 January 2019, of its fifth Economic Reform Programme (ERP) and draws attention to the joint conclusions of the Economic and Financial Dialogue, adopted on 17 May 2019, between the EU ECOFIN Council and the Western Balkans and Turkey. The EU stresses the importance for Montenegro of progressively following up the policy guidance given in these conclusions in a full and timely manner. It observes in this context that the policy guidance adopted in 2018 was implemented only to a limited extent.

* 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.

The EU notes that Montenegro's economy grew by a robust 4.9% of GDP in 2018, driven by public and private investments. The budget deficit decreased, but remained high, at 3.8% of GDP, well over the ERP economic projections. The public debt reached a new record of 70.8% of GDP, partially due to financing needs for a large highway project financed by an international loan. Furthermore, important reforms of the public administration, the labour law and the pension system were delayed, while already high current account deficit widened further to 17.2 % of GDP in 2018.

The EU acknowledges the positive exports dynamics and the creation of new export capacities, as well as the reduction of refinancing risks. Still, significant external financing needs and large trade imbalances persist, rendering the country vulnerable to external shocks. In view of the high budget deficit and public debt, it is essential to step up the implementation of the announced, but delayed reforms, and to continue the fiscal consolidation efforts. The labour market continues to contribute to the gradual decline of unemployment, which fell from 17.4% in 2017 to 15.5% in 2018. Given the absence of monetary policy tools, a rigorous fiscal policy combined with flexible product and labour markets remain important to maintain macroeconomic stability and increase competitiveness.

The EU encourages Montenegro to address the key medium-term challenges to competitiveness and long-term growth by improving the underperforming institutional and regulatory environment, taking effective action to tackle the informal economy, strengthening employment activation, up- and reskilling measures in the labour market, diversifying its production base and improving its competitiveness, particularly in the agricultural and industrial sectors.

The EU underlines that the rule of law is key for improving the business environment and ensuring a sustainable economic growth. Effective and independent judicial systems providing for legal certainty for companies and investors, timely contract enforcement and transparency in the law making are prerequisites for creating an environment that is investment- and business-friendly. More effective and pro-active communication strategies, targeting the stakeholders from the outset of the legislative process, and inclusive public consultation early enough during legislative procedure would equally lead to improved economic outcomes.

The EU invites Montenegro to ensure the adherence of any foreign-funded economic activity to EU values, norms and standards, notably in key areas such as rule of law, public procurement, environment, energy, infrastructure and competition.

EU acquis

The EU welcomes the progress made by Montenegro in aligning its legislation with the EU acquis and implementing its commitments under the trade and trade-related provisions of the SAA.

The EU notes with satisfaction that Montenegro continues to address its priorities related to the internal market. The EU notes that progress on alignment to the *acquis* in the area of free movement of goods continued. The EU takes note of the continued adoption of standards that are compliant with EU standards, but urges Montenegro to ensure the provision of sufficient human and financial resources to its market surveillance, and standardisation, and for REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals).

Regarding the right of establishment and freedom to provide services, preparations have started to establish the point of single contact for regulated professions. Progress continued to implement the national plan on developing qualifications for regulated professions. The Law on recognition of professional qualifications as well as the list of regulated professions was adopted, as was the Strategy for the Development of Postal Services in Montenegro for the period 2019-2023. Work on sectoral legislation needs to continue.

As regards public procurement, the EU notes that preparations continued for the new public procurement law and the public-private partnership law. The EU recalls that all legal and financial instruments used in the area of public procurement and concessions, including inter-governmental agreements concluded with third countries for the implementation of joint projects, should comply with the principles of transparency, competition, equal treatment and non-discrimination. The EU encourages Montenegro to address these issues as a matter of priority and to further strengthen implementation and enforcement capacities at all levels. Despite some improvements in the last year, key bodies of the public procurement system are still in need of additional human resources and modern working methods.

In the field of intellectual property rights, progress has been recorded on effective implementation and enforcement, in particular through cooperation of concerned authorities. Alignment with the *acquis* on copyright and related rights remains to be completed and the strengthening of administrative capacities needs to continue after the structural changes, which affected the intellectual properties service and customs administration.

The EU notes that Montenegro continued legislative alignment in the area of competition. As regards antitrust and mergers, low level of enforcement remains a concern. It could improve by on-site inspections and promoting the leniency policy in place. Misdemeanour courts continue to have sole power to impose fines and their capacity needs to be significantly strengthened, which would eventually have positive repercussions on leniency applications. On State aid, low level of enforcement remains one of EU's main concerns. An independent State aid authority was established in January 2019. Its administrative capacity will need significant further strengthening. Montenegro needs to ensure that granting authorities ask the State aid authority for approval of possible State aid before such State aid is granted. Where State aid has been granted without such prior approval, Montenegro needs to ensure that the authority reviews the aid afterwards, assessing its compatibility. In this regard, Montenegro needs to ensure that the authority has access to all the necessary information in order to implement the State aid *acquis*. This includes large projects undertaken in cooperation with third countries, which need to comply with the State aid provisions of the Stabilisation and Association Agreement. Montenegro has yet to establish a solid enforcement record on State aid control and to take binding decisions on State aid cases, including on crucial cases like Montenegro Airlines and the Bar-Boljare highway.

Regarding financial services, the EU acknowledges the important alignment work already achieved, but notes that substantial further efforts are required to align with and implement the existing *acquis* in this area.

In the area of information society and media, the implementation of the Strategy for information society was reinforced, including on electronic identification and cybersecurity. It remains delayed, however, as concerns the broadband access targets. The EU notes that a new set of media laws, aimed at strengthening the responsibilities of the regulatory authorities for electronic communication and electronic media is in preparation, and should conform to European standards. The regulatory authorities' capacity and independence will need to improve to implement the new media laws. The EU underlines the need to ensure stable financial resources for the public broadcaster and to restore its editorial independence and professional standards.

The EU acknowledges the continued progress made in the area of agriculture and rural development. The EU welcomes the ongoing implementation of the comprehensive strategy and the action plan for the alignment, implementation and enforcement of the *acquis* in this area. Concerning rural development, it notes that Montenegro launched a call on each of the two measures it was entrusted to implement under the EU's pre-accession programme for rural development (IPARD II) and that first projects from the calls investing in physical assets have already started.

The EU notes good progress in the area of food safety, veterinary and phyto-sanitary policy. The national programme for improving raw milk quality to the level of EU standards was adopted and its implementation started. The national programme for the upgrading of food-processing establishments to EU standards successfully continued. Vaccination was successfully carried out. No rabies cases were reported since 2012, no cases of lumpy skin disease since September 2016 and no cases of bluetongue disease since May 2017. Those results are important steps towards stopping their spread into the EU and contributing to their eradication.

The EU welcomes continued progress in the area of fisheries, particularly on inspections and control, where the Fisheries Information System was considerably improved through new modules providing for close monitoring of fishing activities and through interconnection to the maritime transport surveillance system. Montenegro continued its active role at international level, such as the General Fisheries Commission for the Mediterranean (GFCM).

In the transport sector, legislative alignment continued during 2018, however key reforms to create an independent regulatory and safety authority in the railway sector and the achievement of full membership to the Paris Memorandum of Understanding on port State control, remain outstanding.

As regards energy, the EU welcomes the good level of preparation reached by Montenegro in the alignment of its legislative framework with the EU *acquis*. Notwithstanding the progress made, the EU encourages Montenegro to further reform its energy market by adopting the outstanding secondary legislation to make the market fully operational, and in particular to step up efforts to complete alignment with the EU *acquis* on energy efficiency. Furthermore, the EU encourages Montenegro to establish a stockholding body as well as intended storage capacities and to start accumulating the mandatory physical oil reserves, in accordance with the relevant Action Plan.

As regards taxation, the EU notes the continued implementation of the action plan to address the issues highlighted by the tax administration diagnostic assessment tool analysis, and the action plan for the suppression of "grey" economy. The EU observes that a number of tax exemptions granted to holders of private yachts are not in line with the EU *acquis*. The EU encourages Montenegro to join the OECD's Inclusive Framework on BEPS (Base Erosion and Profit Shifting) by end of 2019, and to sign and ratify the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters, in order to prevent its inclusion on the EU list of non-cooperative tax jurisdictions.

As regards customs, the EU welcomes ongoing preparations for Montenegro's accession to the Convention on a common transit procedure. Montenegro still has to further align its legislation on transit, drug precursors, security aspects, and on export control of cultural goods. The EU encourages Montenegro to promote a more service-oriented organisational culture in customs service and strengthen efforts to expand the use of its trade facilitation instruments. Controlling the illicit tobacco trade, in particular the transit through the Port of Bar free zone, remains a significant challenge and the EU welcomes Montenegro's continued efforts to develop its international cooperation in this regard.

The EU welcomes Montenegro's continued progress in the area of statistics, notably by ensuring the transmission of macroeconomic, business, social, and agricultural data to Eurostat. The EU encourages Montenegro to strengthen the human and financial resources of the Statistical Office of Montenegro (Monstat), and for the Ministry of Finance to fulfil its responsibilities regarding the government finance statistics under ESA 2010.

In the area of social policy and employment, the EU notes that while some progress has been made, Montenegro must continue efforts to align with the *acquis*, notably regarding the on-going work on the draft Labour Law. The continuing mismatch between education and the labour market remains a challenge. The EU encourages Montenegro to enhance the monitoring of application of laws in the sector, including the Law on health and safety at work. The EU encourages Montenegro to enhance social dialogue and strengthen cooperation within the Social Council.

The EU notes that the employment activity rate remains low. The further development of active labour market measures remains a priority, particularly for women, youth, and for other minorities including Roma and Egyptians. The EU underlines the need for continuing efforts to address the protection of persons with disabilities. It notes that women remain disproportionately affected by family care responsibilities and receive insufficient support as single parents. More efforts are also needed to promote women's entrepreneurship.

The EU invites Montenegro to continue efforts to implement reforms in the area of the judiciary and fundamental rights, as well as in the area of justice, freedom and security.

As regards *justice reform*, the EU welcomes the continued efforts of the Judicial and Prosecutorial Councils to implement the systems of recruitment, professional assessment and promotion, and improved institutional capacities. The EU underlines, in particular, the need to respect the European standards on independence of the judiciary, including as regards senior appointments in the judiciary, and to fully and timely implement the new system of regular professional assessment. With regard to the accountability and integrity of the judiciary, the EU notes that track records on enforcement of disciplinary accountability and on the Codes of Ethics for judges and prosecutors still remain limited. The EU encourages Montenegro to strengthen the accountability of the judiciary. The EU also encourages Montenegro to ensure timely harmonisation with the case law of the European Court of Human Rights and to address the lack of effective enforcement of court decisions.

As regards efficiency, the EU recalls the need to ensure better human, financial and infrastructure management and to step up the work on concrete rationalization measures of the judicial network. The work on reducing court backlogs also needs to continue. The EU welcomes the measures taken to implement the ICT strategy for the judiciary. The EU underlines the need for timely implementation of the strategy backed by adequate financial and human resources and a clear allocation of responsibilities. The EU recalls that there are still concerns as regards consistency and reliability of statistical data and that the guidelines of the European Commission for the Efficiency of Justice (CEPEJ) are not yet fully implemented. The EU encourages Montenegro to improve its statistical capacity and to actively use data on the performance of the judicial system for management and policy-making purposes. The EU reiterates that Montenegro needs to provide for fair proceedings within a reasonable time when implementing the existing national legal framework, including in the area of property rights and restitution of property.

In relation to the *domestic handling of war crimes*, the EU notes that judicial proceedings are ongoing in one case, while no new investigations have been opened since 2016. The EU encourages Montenegro to step up its efforts to fight impunity for war crimes and to apply a more pro-active approach in investigating, prosecuting, adjudicating such cases, in line with international humanitarian law and the jurisprudence of the ICTY. It welcomes in this respect the signature of a memorandum of understanding between Montenegro and the UN International Residual Mechanism for International Criminal Tribunals (IRMCT), which will facilitate direct MICT assistance to the prosecution on concrete war crimes cases. It recalls the importance of access to justice in line with European and international standards, and compensation for victims of war crimes, in line with Montenegro's commitments.

As regards *prevention of corruption*, the EU notes limited progress in establishing a track record on prevention of corruption. Track records on detecting irregularities need to be further consolidated, in particular in the areas of conflict of interest, political party financing, abuse of state resources, lobbying, whistle-blower protection and codes of ethics. Effective sanctions must be imposed in line with relevant legislation. The EU stresses the need to continue improving the institutional capacities in this area and to implement the recommendations issued by the Council of Europe Group of States against Corruption (GRECO). The institutions are expected to demonstrate a more pro-active attitude and the challenges related to the independence, priority setting, establishment of facts and quality of decisions of the Agency for Prevention of Corruption need to be addressed; the Agency's performance should be significantly enhanced. In order to increase the impact of anti-corruption measures in particularly vulnerable areas, further strengthening of inspection and internal control capacities is required.

With regard to the *fight against corruption and organised crime*, the EU acknowledges the establishment of initial track records of investigations, prosecutions and final convictions in cases of high-level corruption, and some areas of organised crime. The EU notes Montenegro's request to Serbia regarding the former president of the State Union who was convicted for corruption related offences. The track records will need to be consolidated with new investigations and further processing of cases leading to results in terms of indictments and final court decisions, and effective and deterrent sanctions, also with regard to seizure and confiscation of assets where results remain limited. The EU notes with concern that criminal activities in the country have frequently led to gang-related murders and calls for swift and appropriate follow up from the authorities.

The EU strongly encourages Montenegro to step up its work towards establishing initial track records on money laundering and trafficking in human beings. The EU notes some progress with regard to the operational capacities of the prosecution and police, but further improvement is crucial for achieving better results. The EU calls on Montenegro to provide both the Special Prosecutor's Office and the Special Police Unit with all the necessary resources, and sufficient staff to be able to fulfil their tasks. The EU expects that the Special Prosecutor's Office will be provided with adequate premises. The EU calls on Montenegro to step up efforts to increase the use of financial investigations, and to develop a new strategy on countering terrorist financing and money laundering.

On *fundamental rights*, Montenegro has continued the dialogue with international human rights organisations. The EU observes that several aspects of the work of the office of the Ombudsman have improved further. It notes the need to improve the internal organisation of the Ministry of Human and Minority Rights and to provide the Ministry with sufficient staff and resources to enable it to effectively carry out its tasks. The EU encourages Montenegro to ensure that adequate mechanisms are in place to protect vulnerable groups from discrimination, and to strengthen their capacity. The EU notes that Montenegro is yet to eliminate the risk of conflict of interest in the process of attribution of funds to minorities in accordance with the 2017 Law on the rights of minorities.

The EU observes that some progress was made in the field of *civil and political rights*. Montenegro has continued to work towards implementing the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT). The EU takes note of the delays in progressing on investigations into cases of violence by law-enforcement officers, and violence in prisons. The EU urges all the institutions to strengthen the application and protection of human rights and to ensure protection of victims of human rights violations, including by providing for effective investigations into cases of 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. In respect of prisons, the EU further observes that, despite some improvements and Montenegro's continuous efforts, the material conditions of detention, medical and social support to inmates, as well as staff working conditions, remain poor overall. The EU further encourages Montenegro to step up the implementation of alternative sanctions system and rehabilitation and resocialisation programmes.

Regarding the *rights of people with disabilities*, the EU stresses the need to advance on legislative alignment with international standards. The EU invites Montenegro to secure regular and sustainable support to organisations of people with disabilities, and to adopt an action plan to address the recommendations from the UN Committee on Rights of Persons with Disabilities.

On *LGBTI rights*, the EU notes that a Law on civil partnerships is under preparation. It takes positive note of the constructive cooperation with CSOs in this area and good cooperation between LGBTI community and the police. The EU invites Montenegro to adopt a new national LGBTI strategy, and to ensure ownership, good cooperation with CSOs, and an adequate budget allocation for its implementation. The EU notes that the 2018 national pride parade was organised in Podgorica in November without incidents. It observes, however, that the acceptance of sexual diversity is advancing at a slow pace, especially at the local level. Records of prosecution based on hate speech also need to improve.

The EU notes that *domestic and gender-based violence*, as well as violence against children, remain a serious concern. The EU calls on Montenegro to step up its implementation of the Istanbul Convention in line with the 2018 Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) report, including by providing for effective multi-disciplinary cooperation in this area and adequate victim support.

In the field of *rights of the child*, Montenegro is invited to demonstrate a more coordinated and proactive approach in addressing violence against children, child-begging and forced marriages, accompanied by harmonised data collection and additional financial resources.

The EU notes that, despite some progress on improving the socioeconomic position of *Roma and Egyptians*, they remain the most vulnerable and discriminated community. The EU stresses the need for urgent measures in the areas of education, inclusion in the labour market, health, as well as housing conditions and risk of evictions. The possession of civil documentation has increased but remains a matter of concern, especially for children.

The EU welcomes the adoption of secondary legislation to further define the procedure for determining *statelessness* through the new Law on foreigners.

In the area of Justice, Freedom and Security, the EU welcomes Montenegro's continued efforts to align with the EU *acquis* in the field of migration, asylum, border management, judicial cooperation in civil and criminal matters and police cooperation. It welcomes in particular the entry into force of an important legal package consisting of the new Law on foreigners and the new Law on asylum and their respective very substantial secondary legislation. The EU commends Montenegro for its resilience and adaptation to the sharp surge of irregular migrants and asylum seekers in 2018. The EU calls on Montenegro to continue its efforts and to further strengthen its capacity to deal with mixed migration flows, in terms of human and material resources, training and migrants' reception capacities. The alternative accommodation facility in Konik does not offer appropriate protection standards and access to services, and should be replaced as a matter of priority by some new accommodation space in the asylum seekers centre. The sea and land border surveillance must be further improved.

The EU stresses the need for Montenegro to ensure the necessary financial means to implement the Schengen Action Plan and to continue to work pro-actively against criminal activities at its borders, including by strengthening electronic border surveillance. Montenegro should continue to prioritise smuggling of migrants as a security threat and strengthen its cooperation with neighbouring countries in that regard. The Status Agreement with the EU for deploying European Border and Coast Guard teams with executive powers to Montenegro was initialled in February 2019. The agreement is expected to strengthen cooperation between the EU and Montenegro in jointly managing migration and tackling cross-border crime.

The EU notes that Montenegro continuously fulfils the visa liberalisation benchmarks, as indicated in the Second Report under the Visa Suspension Mechanism. The EU calls on Montenegro to continue to be vigilant as regards potential abuses of the visa-free regime with the EU and Schengen-associated countries and to implement the areas of action indicated in the report. The EU further notes that Montenegro still exempts nationals from Russia, Armenia, Kazakhstan, Azerbaijan, Belarus, Cuba, Ecuador, Kuwait and Turkey from short-term visa requirements – either on a seasonal basis for tourism purposes or permanently. It recalls that seasonal visa exemption measures are not in line with the EU *acquis* and therefore encourages Montenegro to take concrete steps to fully align its visa policy with the EU list of nationalities under visa obligation.

The EU commends Montenegro for an increased track record of preliminary investigations and investigations into organised and serious crime. However, Montenegro is encouraged to establish a convincing track record on final convictions, in particular in the fight against trafficking in human beings, money laundering, tobacco smuggling and to increase the number of final asset confiscations. The EU recalls the importance of launching financial investigations when dealing with organised crime, terrorism, money laundering and serious corruption cases, and of ensuring that financial investigations are automatically started together with the criminal investigations.

The EU notes the positive results brought by the appointment of a Montenegrin liaison prosecutor in Eurojust in 2017. The EU takes note of the adoption of the Law on Judicial Cooperation in Criminal Matters with EU Member States. It further invites Montenegro to ensure sufficient and trained human resources to be able to implement the EU *acquis* in the field of judicial cooperation in criminal, civil and commercial matters. Montenegro is encouraged to take part in joint investigation teams whenever there is an operational need for it, as this would facilitate and increase its judicial cooperation with EU Member States.

The EU welcomes Montenegro's active participation in regional and international police cooperation, in particular with EU Member States, and the gradual adoption of international police cooperation tools, that led to successful and important drug and cigarettes seizures and the arrest of Montenegrin crime groups' members. The EU considers that international police cooperation is a key step in the fight against Montenegrin organised crime groups, as most of their members live and operate outside Montenegro. An operational cooperation agreement is in place between Montenegro and Europol. The EU encourages Montenegro to make full use of all the tools and services offered by the agency.

The EU further notes the recent institutional changes regarding the Police Directorate and encourages Montenegro to step up the long-awaited police reform. The EU underlines the importance of introduction of transparent and merit-based system of recruitment, assessment and promotion within the police.

The EU calls on Montenegro to improve its preventive mechanisms in the field of money laundering, as well as to step up its efforts to investigate and prosecute money-laundering offences. The EU encourages Montenegro to continue its efforts to implement Moneyval recommendations, in particular in the view of the 5th evaluation round.

The EU continues to stress the need to ensure efficient investigative skills of police and prosecution in detecting and identifying trafficking in human beings, in order to establish a track record in this area. The EU takes note of a first-instance court decision issued in a human trafficking case.

The EU also recalls that institutional awareness and capacities need to be increased to monitor possible terrorist threats, including relating to radicalisation and return of foreign fighters. Preventive activities in this area need to be strengthened and anti-radicalisation measures implemented. Montenegro is expected to implement the Joint Action Plan on Counter Terrorism for the Western Balkans. The EU notes the increase of drugs transiting through the Western Balkans region and encourages Montenegro to continue its efforts to detect and confiscate drugs at its borders.

On cybercrime, the EU notes that human resources in the relevant police service are insufficient considering the risk factors. Montenegro's administrative capacities to fight cybercrime and cyber-enabled crime must be addressed as a matter of priority.

Concerning science and research, the EU welcomes Montenegro's programme for supporting innovative start-ups, supported by the Policy Support Facility of Horizon 2020 (H2020). The EU encourages Montenegro to continue to seek ways of improving participation in H2020 and achieve greater cooperation between the public research sector and industry. The EU recalls the importance of continued efforts on increasing investment in research (in particular stimulating private sector investment) and improving the collection of statistical data, in particular on research and development, but also on innovation. The EU welcomes the advanced status of Montenegro's draft smart specialisation strategy which should prove an essential element for identifying key measures to support competitiveness and growth.

Regarding education, the EU encourages Montenegro to continue reform efforts across all levels and strengthen sector governance for the effective delivery of education services. The EU underlines that these reform measures should be accompanied by a relevant system of monitoring and evaluation. Along with continued curricula reform, the EU welcomes practical training at higher level education and the increased participation of students and employers alike in the dual education programme for VET as a means of addressing labour market needs. The EU underlines the importance of teacher training and development for contributing to student attainment, and encourages further initiatives to reinforce quality-assured basic and transversal skills, entrepreneurship and career guidance. The EU recalls the importance of inclusive education for all and of strengthening the access to and quality of early childhood education and care services.

The EU notes that Montenegro has achieved some level of preparation in the area of environment and climate change. Montenegro updated and continued to implement its action plan for its national strategy to align with and implement the EU *acquis* on the environment and climate change. The lack of administrative capacity and financial resources at national and local levels however continues to delay its implementation. The EU encourages Montenegro to speed up progress in this field, in particular in the areas of water, waste, nature and climate change and on cross-border issues such as marine litter. Genuine dialogue between civil society and the government is required to achieve effective public participation and consultation in decision-making. The EU reiterates the need to integrate environment and climate change considerations more systematically into other sectors, including tourism and energy, including hydropower development.

The EU regrets that no tangible progress was achieved on protecting the potential Natura 2000 site and important bird habitat Ulcinj Salina and reiterates the need for resolute and urgent action, as required by the EU Common Position on Chapter 27. The EU invites Montenegro to implement international agreements, such as the Ramsar Convention and the African-Eurasian Migratory Waterbird Agreement (AEWA); and to ensure that no construction in the wider area of Ulcinj Salina is possible that would negatively affect its future protection status. Authorities should also strictly assess possible negative environmental impact of building construction in the Lake Skadar national park and on the Tara river in the context of the construction of the Bar-Boljare highway. The EU notes that while marine protected areas are not yet designated, marine species need to be protected in the meantime, for example during seismic surveys for oil and gas exploration.

The EU encourages Montenegro to ensure consistency between the national climate change strategy and the EU 2030 climate and energy policy framework, and its integration into all relevant sectoral policies and strategies. The adoption of a climate change law, which will, among others, incorporate elements of the EU emissions trading system (ETS), the Effort Sharing Regulation and the monitoring and reporting mechanism (MMR), is pending and considerable efforts are still needed to align with the climate *acquis*. As for the UN Framework Convention on Climate Change (UNFCCC), the EU welcomes the ratification of the Doha amendment to the Kyoto Protocol to the UNFCCC.

Regarding consumer and health protection, the EU notes Montenegro's progress on the legislative alignment with the EU *acquis* on consumer protection and on general product safety. Montenegro needs to ensure further alignment with EU health protection *acquis*, and the implementation of its national action plans on communicable diseases and on substances of human origin. The EU urges Montenegro to address the fiscal sustainability of the health system, implement the smoking ban in public places and to align to the EU *acquis* on tobacco control and patients' rights in cross-border healthcare.

As regards financial control, the EU notes the progress made on public internal financial control and, in particular, the adoption of a law on governance and internal control. The EU urges Montenegro to start implementing managerial accountability throughout the public administration, and to adopt an external audit methodology that fully complies with the International Standards of Supreme Audit Institutions. Montenegro also needs to significantly strengthen the coordination capacity of the National Anti-fraud Coordination Service.

Pre-accession Assistance (IPA)

As regards IPA II 2014 -2020, the EU notes that 73% of the funds allocated to Montenegro were programmed by end 2018. Approximately half of IPA programmes are implemented in indirect management by the two national contracting authorities. Notwithstanding an improvement in the management of IPA funds, the authorities and the line ministries should continue to make additional efforts to increase the efficiency of public procurement and to step up monitoring of the IPA programmes. Under IPA 2014-2020, the gradual increase of budget entrustment, including the IPARD II entrustment decision granted in 2017, requires a long-term commitment focused on establishing conditions for the efficient and effective utilisation of IPA funds. Therefore, the EU encourages Montenegro to both continue building capacities, and to providing the appropriate level of resources to the Operating Structures responsible for the management of IPA programmes.

3.2. Bilateral relations under the Stabilisation and Association Agreement

The EU reiterates that the Stabilisation and Association Agreement (SAA), within the framework of the Stabilisation and Association Process, remains at the core of the relationship between the EU and Montenegro. The EU welcomes Montenegro's positive track record in implementing its obligations under the SAA, including its trade related provisions since its entry into force on 1 May 2010. In particular, the EU welcomes the successful conclusion of Montenegro's first WTO trade policy review in 2018. On State aid, the EU notes that Montenegro, after establishing the independence of the State Aid Authority, should strengthen its efforts to demonstrate at all levels its functioning and effectiveness in order to fully comply with the provisions laid down in the Stabilisation and Association Agreement.

The EU notes that Montenegro has been actively participating in EU programmes since January 2008. IPA funds are used to meet part of those costs. Montenegro is currently participating in: Erasmus+, Creative Europe (Culture and Media strands), Employment and Social Innovation (EaSI), the Union Civil Protection Mechanism, Horizon 2020, Customs 2020, Fiscalis 2020, Competitiveness of Enterprises, and Small and Medium-Sized Enterprises Programme (COSME), Europe for Citizens and the Interoperability solutions for public administrations, businesses and citizens (*ISA*²). Montenegro also participates with its own funds in the EU Justice programme.

The EU encourages Montenegro's participation in other EU programmes in the future, where pertinent to the accession process.

Item 4. Exchange of views on developments in the Western Balkans

The European Union and Montenegro will proceed to an exchange of views regarding developments in the Western Balkans.
