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**Montenegro 2022 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**

**2022 Communication on EU Enlargement policy**

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## **1. INTRODUCTION**

### **1.1 CONTEXT**

Accession negotiations with Montenegro were opened in June 2012. To date, 33 negotiating chapters have been opened, of which three have been provisionally closed. Montenegro accepted the revised enlargement methodology. Montenegro continued to implement the Stabilisation and Association Agreement (SAA) and meetings of the joint bodies under the agreement took place at regular intervals.

Overall progress in the accession negotiations depends on progress in the area of rule of law, as per the requirements set out in the Negotiating Framework as well as in the revised methodology formally accepted by Montenegro in the Intergovernmental Conference held on 22 June 2021. Progress towards meeting the interim benchmarks set in the rule of law Chapters 23 and 24 is key to achieving further progress in the negotiations overall, as no further chapters will be provisionally closed before this milestone is reached. The 14th Intergovernmental Conference held on 13 December 2021 and the SA Council held on 14 July 2022 provided political steer on accelerating work to meet that milestone. In order for Montenegro to take further steps forward in the accession path, it was urged to address all remaining gaps in the areas of freedom of expression and media freedom, the fight against corruption and organised crime, and to accelerate and deepen reforms on the independence, professionalism and accountability of the judiciary. The pace of this work will be determined by Montenegro.

The Montenegrin authorities' political commitment to the strategic goal of EU integration and their ambition to move forward in the accession negotiations based on continuing reform progress have been consistently stated as the country's key priority. The failure to build consensus on key matters of national interest continued and caused two governments to fall on votes of no-confidence. Political volatility, government instability and tensions have stalled decision-making processes and reform implementation.

Montenegro's continued full alignment with the EU's foreign and security policy, including EU restrictive measures following Russia's unprovoked aggression against Ukraine, its vocal support for EU initiatives at the UN in response to this aggression, as well as for international law and a rules-based international order, is commendable. This is a strong signal of the country's strategic orientation and commitment to the goal of EU accession.

Political commitment, credible engagement and consensus building by all relevant institutions and actors in carrying out Montenegro's EU reform agenda remain fundamental. It is important that all political actors exercise their responsibility to participate in political debates in Parliament and engage in constructive coordination on all relevant EU-related legislative initiatives.

The COVID-19 pandemic continued throughout the reporting period. In spring 2022, Montenegro lifted partially the restrictions, introduced to limit the severity of the pandemic. During the reporting period, Montenegro adopted fiscal measures to mitigate the severe economic and social impact of the crisis.

## 1.2 SUMMARY OF THE REPORT<sup>1</sup>

As regards the **political criteria**, political tensions, polarisation, the absence of constructive engagement between political parties and the failure to build consensus on key matters of national interest continued and caused two fractious governments to fall on votes of no-confidence. The proper functioning of Montenegrin institutions has been affected by political volatility, government instability and tensions within the ruling majorities, stalling decision-making processes and reform implementation. The main judicial bodies, including the Constitutional Court, have been operating in an incomplete composition due to the Parliament's inability to elect new members, thus undermining their proper functioning. As of mid-September the Constitutional Court was unable to fulfil its role due to the absence of a quorum, amplifying political uncertainty.

The conclusion of the Fundamental Agreement with the Serbian Orthodox Church had an impact on the political atmosphere and raised further tensions. Overall, the governments and the Parliament failed to demonstrate in practice their engagement as regards the EU-related reform agenda.

There was no progress with regard to a comprehensive reform of the electoral legal and institutional framework, including on the Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) recommendations, following the observation mission of the 2020 parliamentary elections. The Parliamentary Committee for a comprehensive electoral reform was not operational from June until November 2021 and met only twice in 2022, before its mandate came to an end in July 2022. Local elections took place in five municipalities. In May 2022, the Parliament adopted amendments to the Law on Local Self-Government allowing to hold all remaining 2022 local elections on the same day. In July, the Constitutional Court assessed these amendments as unconstitutional. A credible, independent and effective institutional response to the so called 'envelope affair' remains to be ensured.

The work of the Parliament has been marked by boycotts of the ruling majority and of the opposition, changes of governments and by the change of two consecutive Speakers in the process. The legislation-making process was significantly affected. There was no credible political dialogue and constructive engagement by political parties with a view to enhancing parliamentary accountability and government oversight. Government and Parliament cooperation should be further regulated to enhance Parliament's participation in and oversight of the accession process.

The Parliament continued to strengthen its transparency, by establishing several citizen-oriented services. The capacity of Parliament to integrate and oversight gender equality issues needs to be enhanced.

The role of **civil society** is recognised and promoted, although the current legal and institutional framework needs to be further improved to strengthen the consultation and cooperation mechanisms between state institutions and civil society in the context of the EU accession process.

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<sup>1</sup> This report covers the period from June 2021 to June 2022. 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. This also includes the results of comparative assessments and indices produced by other stakeholders, in particular on the rule of law. The report uses the following assessment scales to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have been used.

Montenegro is moderately prepared as regards **public administration reform**. Overall, limited progress was made, including the adoption of the new 2022-2026 strategy for public administration reform. Conversely, the effects of the reorganisation of the public administration and the amendments to the Law on civil servants and state employees adopted in 2021 continued to be felt, with staff changes, a loss of know-how on EU accession process-related matters and an overall slowing of the pace of reforms. The lowered requirements introduced by these amendments are a source of continuing concern with regard to the merit-based recruitment, competence and independence of civil servants. Furthermore, draft amendments of the Law on local self-government would similarly lower such requirements at the local level. Amendments to the Law on access to information have yet to be adopted by Parliament. Effective lines of accountability within the administration are still to be established. Strong political will is needed to effectively address issues related to merit-based recruitments, optimisation of the state administration and implementation of managerial accountability.

Montenegro remains moderately prepared when it comes to its **judicial system**. Limited progress was achieved overall during the reporting period. The implementation of key judicial reforms remains stalled. Certain long-pending high-level judicial appointments took place, while several others, including at the Constitutional Court (for which a qualified majority in Parliament is required) are still pending. Concerns remain over the institutional performance and consolidation of independent Judicial and Prosecutorial Councils. The track record on judicial accountability remains limited. The judiciary's effective independence, integrity, accountability and professionalism need to be further strengthened, including by implementing the relevant constitutional and legal framework and by adopting legislative changes in line with European standards. The judiciary's efficiency also needs to be strengthened. The adoption of a new strategy for the rationalisation of the judicial network is still pending, as is the implementation of the ICT strategy for the judiciary. Montenegro continues to make progress on the domestic handling of war crimes.

Montenegro has achieved some level of preparation in the **fight against corruption**. Limited progress was achieved during the reporting period, with last year's recommendations only partially met. The track record on prevention of corruption further improved, in particular due to the positive trend in the work of the Anti-Corruption Agency. However, more needs to be done to ensure the Agency's integrity, impartiality and accountability, and to improve its tangible results and public trust, in line with the recommendations of the peer review mission conducted in 2021. To demonstrate a credible criminal justice response, Montenegro still must improve its track record of investigations, prosecutions and final convictions in the fight against corruption, including high-level corruption. Furthermore, the legal and institutional framework must be improved in line with the EU *acquis* and European standards, including for the effective use of financial investigations and asset seizure and confiscation in such cases. The sectors most vulnerable to corruption require targeted risk assessments and dedicated action.

In the **fight against organised crime**, Montenegro has some level of preparation/is moderately prepared. Some progress was made in addressing last year's recommendations, in particular as regards the efficiency of criminal investigations. The full use of special investigative measures was restored. Legislative changes introduced safeguards against political influence over the appointment or dismissal of the Head of the police. A register of beneficial ownership was created. The administrative framework on firearms was improved and a new strategy on the prevention of terrorism, money laundering and the financing of terrorism was adopted. Some key figures in organised crime groups were arrested and another record of drug seizures was reached. The first joint investigation team with a third country

was launched. The number of final convictions in organised crime cases is on the rise. However, the track record of court decisions on tobacco smuggling and money laundering, the use of financial investigations and the capacity to confiscate the proceeds of crime needs to be strengthened. Montenegro has yet to address some systemic deficiencies that exist across the board in its criminal justice system, including the way organised crime cases are handled in courts. This will require a more deterrent sentencing policy and a revision of the use of plea bargains in organised and serious crime cases.

Montenegro is moderately prepared in the area of **fundamental rights**. The legislative and institutional framework is largely in place and Montenegro continues to meet its international obligations on human rights. However, additional efforts remain needed to implement it fully. On **freedom of expression**, Montenegro benefits from a pluralistic media environment and has achieved some level of preparation. Limited progress was made on last year's recommendations. The legal framework on the protection of journalists and other media workers was improved thanks to the adoption of amendments to the Criminal Code laying down more stringent penalties against attacks and threats against journalists and obstructing or preventing them from performing their work. However, the lack of effective judicial follow-up on important old cases remains a matter of serious concern. The revision of the legal framework and the drafting of a new media strategy remain pending, in order to ensure their mutual consistency and full alignment with the EU *acquis* and relevant European standards. Sustained efforts are needed to counter disinformation and limit the effects of online harassment and hate speech, without disproportionately limiting freedom of expression. The public broadcaster RTCG continued to produce politically balanced and diverse content. Deep political polarisation of the media scene persisted, while growing competition from big regional media placed additional strain on the local media market.

On the **economic criteria**, Montenegro has made **good progress** and is **moderately prepared** in developing a functioning market economy. After experiencing a sharp recession in 2020, the economy recorded a strong rebound in 2021 and kept growing at a steady pace in the first half of 2022 as the removal of COVID-19 restrictions buoyed both domestic and external demand. The recovery led to surging revenues and a very large improvement in the budget balance. The fallout from Russia's war against Ukraine has been limited so far, despite these two countries' very significant contribution to Montenegro's tourism in the past. Driven by surging global commodity prices, inflation increased significantly. The government adopted an ambitious fiscal reform programme (called 'Europe Now') to support the post-pandemic recovery and provided fiscal stimulus measures easing the burden on households from rising energy and food prices. External imbalances decreased significantly thanks to the rebound of tourism, while the state of the labour market started to improve, even if structural problems persist. The banking system remained stable and non-performing loans did not increase significantly in 2022 after the expiry in 2021 of the loan moratorium adopted in the context of the COVID-19 crisis.

Montenegro has made **some progress** and is **moderately prepared** to cope with competitive pressure and market forces within the EU. The last two governments worked to improve innovation capacities and to set the basis for a green and digital transition in an effort to diversify Montenegro's narrow production. In particular, modern telecommunications and ambitious green energy projects are being deployed. However, infrastructure gaps persist, as the country's administrative and financial capacities to implement major public investments remains limited. The education system still faces numerous challenges over a chronic shortage of science, technology, engineering and mathematics (STEM) graduates. In addition, the low value added of domestic products, the small size of local companies and low level of

participation in exports represent obstacles for increasing the productivity and competitiveness of local firms.

**On good neighbourly relations and regional cooperation**, Montenegro generally maintains good bilateral relations with other enlargement countries in the region and with neighbouring EU Member States, marked by continued cooperation and several high-level visits. Relations with Serbia remain challenging but both sides are signalling more willingness to reset relations and work toward addressing open issues. In general, Montenegro actively participates in regional cooperation.

**On Montenegro's ability to assume the obligations of EU membership**, the country continued the work on alignment with the EU *acquis* in many areas, however overall the progress made was limited.

The cluster on the **internal market** is key for Montenegro's preparations for the EU's requirements in this area and is of high relevance for early integration and the development of the Common Regional Market. All nine chapters are open, with closing benchmarks that remain to be fulfilled in each chapter. Progress was achieved in several areas within the cluster, particularly on: (i) market surveillance, accreditation and standardisation; (ii) stepping up the Employment Agency's capacity on the European network of employment services; (iii) continued alignment with the Services Directive; (iv) legislation on accounting; (v) *acquis* alignment on intellectual property rights and (vi) State aid transparency and ordering recovery of unlawful State aid. The stability of Montenegro's banking sector also advanced, as did legislative alignment on consumer protection and the adoption of implementing legislation on health protection.

The **competitiveness and inclusive growth** cluster and the reforms concerned have significant links to Montenegro's economic reform programme. All eight chapters are open, with closing benchmarks set in all but two, namely Chapters 25 (science and research) and 26 (education and culture) both of which are provisionally closed. Closing benchmarks remain to be fulfilled in each of the other six chapters. Some progress was achieved in various areas, namely on the alignment with the Broadband Cost Reduction Directive, on tax legislation and on administrative cooperation and mutual assistance. There was also progress on further implementation of the revised industrial policy. By contrast, there was slow progress on preparations for accession to the Convention on a Common Transit Procedure, on implementing actions envisaged in the 2018-2022 trade facilitation strategy, and on implementing the action plan for alignment with the EU *acquis* on economic and monetary policies.

The **green agenda and sustainable connectivity** cluster is at the heart of the Green Agenda for the Western Balkans and closely linked to Montenegro's economic reform programme and the Commission's Economic and Investment Plan. All four chapters are open, with closing benchmarks that remain to be fulfilled in each chapter. Some progress was achieved on creating a functioning day-ahead energy market and on preparing for membership of the Paris Memorandum of Understanding on Port State Control. There was limited progress on the review and implementation of the transport development strategy; on water management and by improved climate change reporting.

The cluster on **resources, agriculture and cohesion** comprises policies linked to EU structural funds and to developing capacity to assume the responsibilities of a future Member State. It also comprises some of the key policy areas crucial for ensuring sustainable food systems and helping rural communities to develop and diversify economically. All five chapters are open, with closing benchmarks that remain to be fulfilled in each chapter.



Progress was achieved in various areas, notably in agriculture, food and fisheries, where there was further support for agricultural establishments and rural food companies to align with the EU standards, and in implementing IPARD. On financial and budgetary provisions, progress was achieved through improved coordination and management of own resources.

On the **external relations** cluster, Montenegro has provisionally closed Chapter 30 and has to fulfil the single closing benchmark on Chapter 31. Montenegro continues full alignment with the EU's common foreign and security policy, including with the EU's restrictive measures following Russia's unprovoked aggression against Ukraine. It also coordinates its positions with those of the EU, including within the WTO and maintains good cooperation with international organisations. Progress can be noted on the adoption of the Law on export control of dual-use goods, in line with the EU *acquis*, and the ratification of Central European Free Trade Agreement (CEFTA) Additional Protocol 6. Montenegro's voting patterns on cybercrime at the United Nations are fully convergent with the position taken by the EU and its Member States. In the area of **migration**, Montenegro signed a cooperation roadmap with the European Asylum Support Office (now the EU Agency for Asylum) and joined the European Migration Network, an EU network of migration and asylum experts, as an observer member. The processing time for asylum applications was reduced. Montenegro's visa policy is not fully aligned with that of the EU and Montenegro has not yet terminated its investor citizenship programme, despite previous recommendations and commitments. Montenegro is the Western Balkan partner hosting proportionally the highest number of Ukrainian nationals having fled the war. It adopted a decision granting one-year temporary protection to people fleeing Ukraine, under which more than 5 552 Ukrainians, mostly women and children, have registered so far.

### 1.3. STATE OF PLAY OF THE ACCESSION NEGOTIATIONS

CLUSTERS	Chapters/areas	Date chapter opened / closed with interim or closing benchmarks
<b>Fundamentals</b> <i>All chapters open</i>	23 – Judiciary and fundamental rights 24 – Justice, freedom, security 5 – Public procurement 18 – Statistics 32 – Financial control ... Economic criteria ... Functioning of democratic Institutions ... Public administration reform	December 2013 December 2013 December 2013 December 2014 June 2014 - -
<b>Internal market</b> <i>All chapters open</i>	1 – Free movement of goods 2 – Freedom of movement for workers 3 – Right of establishment and freedom to establish services 4 – Free movement of capital 6 – Company law 7 – Intellectual property rights 8 – Competition 9 – Financial services 28 – Consumer and health protection	June 2017 December 2017 December 2017 ... June 2014 December 2013 March 2014 June 2020 June 2015 December 2014

<b>Competitiveness and inclusive growth</b>  <i>All chapters open ch.25 and 26 provisionally closed</i>	10 – Digital transformation and media 16 – Taxation 17 – Economic and monetary 19 – Social policy and employment 20 – Enterprise and industrial policy 25 – Science and research  26 – Education and culture  29 – Customs union	March 2014 March 2015 June 2018 December 2016 December 2013 December 2012 (opened and closed – no closing benchmarks); April 2013 (opened and closed – no closing benchmarks) December 2014
<b>Green agenda and sustainable connectivity</b>  <i>All chapters open</i>	14 – Transport policy 15 – Energy 21 – Trans-European networks 27 – Environment and climate change	December 2015 December 2015 June 2015 December 2018
<b>Resources, agriculture and cohesion</b>  <i>All chapters open</i>	11 – Agriculture and rural development 12 – Food safety, veterinary and phytosanitary policy 13 – Fisheries 22 – Regional policy and coordination of structural instruments 33 – Financial and budgetary provisions	December 2016 June 2016 June 2016 June 2017 ... December 2014
<b>External relations</b>  <i>Both chapters open, ch.30 provisionally closed</i>	30 – External relations  31 – Foreign, security & defence policy	March 2015 – June 2017 provisionally closed June 2014

Not part of a cluster: chapters 34 Institutions, and 35 Other issues are currently not applicable for Montenegro.

## 2. CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS

### 2.1. FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

#### 2.1.1 Democracy

In Montenegro, polarisation, the absence of constructive engagement between political forces and the failure to build consensus on key matters of national interest continued and caused two governments to fall on votes of no-confidence. The proper functioning of Montenegrin institutions has been affected by political volatility, government instability and tensions within the ruling majorities, stalling decision-making processes and reform implementation. The main judicial bodies, including the Constitutional Court, have been operating in an incomplete composition due to the Parliament's inability to elect new members, thus undermining their proper functioning. As of mid-September the Constitutional Court was unable to fulfil its role due to the absence of a quorum. No credible efforts have been made to overcome the societal and political polarisation, which culminated during the enthronement of the Metropolitan of the Serbian Orthodox Church (SOC) in September 2021 and the

signing of the Fundamental Agreement with SOC in the summer 2022. There was no inter-party dialogue to address reconciliation and key matters of national interest. Overall, limited progress was made on the EU-related reform agenda.

### Elections

There was no progress with regard to a comprehensive reform of the electoral legal and institutional framework, including on the OSCE/ODIHR recommendations, following the observation mission of the 2020 parliamentary elections. The Parliamentary Committee for a comprehensive electoral reform had limited activity and its mandate came to an end in July 2022. Local elections took place in five municipalities. In May 2022, the Parliament adopted amendments to the Law on Local Self-Government allowing to hold all remaining 2022 local elections on the same day. In July, the Constitutional Court assessed these amendments as unconstitutional. A credible, independent and effective institutional response to the so called 'envelope affair' remains to be ensured.

The Parliamentary Committee for a comprehensive electoral reform resumed its activities in November 2021, after the return of four opposition Members of Parliament (MP) who had suspended their participation in June 2021. On 30 December 2021, upon a decision jointly supported by all nine parliamentary MP groups, the Parliament extended the Committee's mandate until 31 July 2022, but issued no further extensions. There were only two sessions of the Committee in 2022.

In May 2022, amendments made to the Law on Local Self-Government stipulated that local elections in Podgorica and 13 other municipalities should be held on the same day, no later than 30 October. The Democratic Front (DF) political group and two Non-Governmental Organisations (NGOs) submitted a complaint to the Constitutional Court on the legality of the Law and in July, the Constitutional Court assessed these amendments as unconstitutional. Nevertheless, the President called for elections in all relevant municipalities for 23 October.

In August, the Parliament passed amendments to the Laws on the territorial organisation of Montenegro and the Capital City, which envisages the establishment of a new municipality of Zeta. This reduces the number of voters in Podgorica. The Parliament however did not appoint a Municipal Election Commission (MEC) for the new municipality, in the absence of a MEC, the institution responsible for organizing the elections, they cannot be appropriately held.

The majority of recommendations of OSCE/ODIHR following the August 2020 parliamentary elections, as well as a number of previously pending OSCE/ODIHR recommendations, remain unaddressed, including those related to an audit of the voter register, measures against the misuse of state resources, as well as certain limitations of suffrage rights. In addition to addressing the OSCE/ODIHR recommendations, the Parliamentary Committee for electoral reform had a mandate to propose new laws on election of MPs and councillors, voter's registry, financing of political entities and electoral campaigns, and registers of residence, a decision on holding local elections in all municipalities in a single day as well as a code of ethics for election campaigns. Furthermore, the Committee was tasked with analysing the implementation of and proposing possible amendments to the Law on identity cards and the Law on Montenegrin citizenship, as well as proposing measures to strengthen the professionalism and transparency of the work of the State Election Commission (SEC) and the Anti-Corruption Agency (ACA). No progress was achieved on any of these issues. Furthermore, no comprehensive audit to enhance public trust in the voter's registry, for example through conducting field tests, has been conducted. Previous allegations of double-registered voters in one or more countries of the region need

to be thoroughly investigated by the competent authorities.

Following the dismissal of the SEC President in June 2021, the new President was elected only on 8 December 2021, after local elections were held in Cetinje, Mojkovac and Petnjica. Therefore, the SEC could not convene sessions to organize elections in prisons and to accredit election observers, consequently the elections took place without accredited observers. The SEC started working on election reform areas that are in its sole competence, such as analysing and revising its by-laws, training in local polling stations and increasing transparency of SEC sessions and decisions. In March 2022, the SEC adopted revised by-laws to ensure easier access to polling stations and a better voting experience for persons with disabilities. In June, the SEC further revised several by-laws in line with OSCE/ODIHR recommendations. In July, the SEC adopted voter complaints forms fulfilling an OSCE/ODIHR recommendation. The SEC signed a Memorandum of Cooperation with a NGO to strengthen the transparency of its work.

After the local election in Petnjica, four complaints were submitted to the local Municipal Election Commission. The MEC and the SEC as second instance rejected all four complaints as unfounded. The applicants lodged an appeal against one of the SEC's decisions, which the Constitutional Court confirmed. Consequently, the elections in one polling station were repeated. On 28 March 2022, local elections took place in Berane and Ulcinj. After the MEC of Ulcinj accepted a complaint, elections were repeated in one polling station.

There are no new developments in the political and judicial follow-up of the alleged misuse of public funds for party political purposes in 2012 on the "audio recordings affair". Political and judicial follow-up to the alleged electoral fraud case the 'envelope affair' is still ongoing. In September 2021, after two appeals submitted by the Special State Prosecutor's Office, the High Court in Podgorica confirmed an indictment against a former high Democratic Party of Socialists (DPS) official for money laundering.

#### **Parliament**

Deep polarisations and mistrust between and within political coalitions has marked the period during which two fractious governments have been in power. The work of the Parliament has been marked by boycotts of the ruling majority and of the opposition, changes of governments and by the change of two consecutive Speakers in the process. The legislation-making process was significantly affected. The Parliament should demonstrate in practise its commitment to Montenegro's EU reform agenda and work on overcoming deep polarisation.

There was no effective political dialogue and constructive engagement by political parties with a view to enhancing parliamentary accountability and government oversight. Government and Parliament cooperation should be further regulated to enhance Parliament's participation in and oversight of the accession process. Relations between Parliament and Executive need to be regulated by an Act of Parliament, as the current Rules of Procedure were not enacted in the form of a law.

The Parliament continued to strengthen its transparency, by establishing several citizen-oriented services. The capacity of Parliament to integrate and oversight gender equality issues needs to be enhanced.

For the first part of the reporting period, tensions within the majority supporting the government led most MPs to boycott the plenary sessions during October and November 2021, with the exception of a few extraordinary sessions. This contributed to effectively suspending the decision-making processes in the Parliament. It was only at the end of December 2021 that the Parliament convened the ordinary autumn session.

In January 2022, the long-lasting divergences within the parliamentary majority led to a vote of no-confidence in the Government and its downfall. The Speaker of the Parliament was also dismissed. The Parliament convened for its first regular session of the year only on 28 April. With the vote of 45 MPs, the Parliament elected a new government led by Mr Abazović and a new Parliament Speaker. Following the signature of a Fundamental Agreement with the Serbian Orthodox Church (SOC) on 3 August, the government was opposed by part of its own majority and lost a no-confidence motion on 19 August. As a result, the Montenegrin Government is currently exercising its functions in a caretaker mandate, as was also the case between January and April 2022. On 30 September the Parliament decided to not debate the shortening of its mandate, as had been proposed by the President following the missing of the deadline to nominate a new PM designate.

As regards the Parliament's **legislative role**, the occasional boycott of certain parliamentary groups weakened the quality of the debates. Bills were often discussed in the absence of basic financial assessments and without an adequate opinion of the government. The Parliament's capacity to scrutinise draft legislation for compliance with the EU *acquis* remains limited.

During the December 2021 session, the Parliament elected a Vice-President of the Parliament from among MPs of minority parties and appointed the President of the State Election Commission and the Deputy Protector of Human Rights and Freedoms. At the same sitting, the Parliament elected five lay members of the Prosecutorial Council. The Parliament also adopted important laws and decisions, including the 2022 Budget Law, together with eight accompanying laws proposed by the government as part of the "Europe Now" programme.

Efforts were undertaken to improve **parliamentary oversight**, but effective control remains at an early stage. The Rules of Procedure stipulate that the Prime Minister's Hour takes place once a month, and eight such sittings were held during the reporting period. The Parliament does not have the capacity to hold ministers accountable for non-attendance or lack of answers. On three occasions, the previous Prime Minister did not accept interpellations adopted by the Parliament against the former ministers.

Despite procedural and institutional improvements, quantitative analysis on the work of the Parliament and its working bodies in the reporting period does not show significant progress on oversight, partly due to occasional boycott and the consequent impossibility for the committees to work in full capacity. Some committee chairs, however, use oversight proactively. The Committee on political system, judiciary and administration was the most active, whereas the Committee on Anti-Corruption least active.

The Parliament continued to improve the level of transparency and communication with the public. The most visible form of parliamentary transparency is the possibility to follow proceedings through the media and on the Internet, by live broadcasting sessions of the Parliament and its working bodies or on request through the Parliamentary Channel. An important innovation is the establishment of the E-petition project, where citizens can contact the Parliament to initiate legislation. The project aims at fully digitalising the entire legislative process. However, the project has not been promoted enough and many citizens are not aware of its existence.

No reports on violations of the **Code of Ethics** have been submitted to the Committee on Human Rights and Freedoms in the reporting period. The Parliament received 348 citizens' petitions, 22 were related to the E-petition legislative initiative.

The professional and expert capacity of the Parliament's administrative staff continued being strengthened. In the reporting period, on the proposal of the Administrative Board, the Parliament passed the decision to allow initiating criminal proceedings against one opposition

Member of the Parliament of Montenegro, at the request of the Special State Prosecutor's Office, due to alleged abuse of his official position. The Special State Prosecution Office also requested waiving the immunity of five more MPs, without getting approval.

Politics continue to be male-dominated and it is noticeable that verbal abuse against women in political life is growing, especially in the public sphere and particularly towards the younger politicians. Systemic shortcomings remain, and patriarchal attitudes and insufficient party interest are still obstacles to a more active involvement of women in politics. The cross-party Women's Club in the Parliament continued its active role and initiated discussions on improving the legal framework on gender related issues through amendments to the Criminal Code. The Committee for Gender Equality improved its oversight function, by organising a number of consultative control hearings. MPs and parliamentary staff increased their capacity in gender-responsive budgeting and gender assessments in drafting and adopting legislation and policies.

Shortcomings in the legal framework regulating **political parties** and their funding persist. The results produced by the Anti-corruption Agency's and the State Audit Institution's work on the monitoring of political parties' financing are very limited. More efforts are needed to strengthen the control mechanisms and political parties should follow-up on their recommendations in a more effective and transparent manner.

Inappropriate speech still dominates some debates, with MPs using terms that in the context of deepened political, social and ethnic divisions do not contribute to much-needed reconciliation and improved inter-party dialogue.

### **Governance**

The reporting period was marked by turmoil within the ruling majorities, which brought about a blockage of several reform processes and government activities, and had an impact on the effective institutional functioning of the country. A Minister of Justice was dismissed in June 2021 and until April 2022 no replacement was appointed. From beginning of February until 28 April 2022, the government exercised its duties as a caretaker, a number of senior appointments were made at the end of the mandate. The current government has been fully on duty for less than four months, and is currently continuing in a caretaker capacity.

Montenegro continued to implement its national programme for EU accession. In November 2021, the government adopted the "Information on the need to form working groups for the programming of the EU Instrument for Pre-Accession Assistance for the period 2021-2027 (IPA III)" and "Information on progress in the process of negotiations on a cluster approach". On 28 April 2022 the Ministry of European Affairs, under the responsibility of a Deputy Prime Minister, leading the negotiation process with the EU, was established. In August 2022, the government adopted decisions on a new EU negotiation structure and amended the decisions on working groups for negotiation Chapters 23 and 24. The new structure consists of the Negotiation Collegium, Council for Rule of Law, Negotiation Team, negotiation working groups, and the Ministry of European Affairs. The negotiating structure has been slimmed down considerably.

Overall, transparency of governance remained an issue. However, some positive steps were made, including a regular, proactive publication of information on all expenditures from the central budget.

Until April 2022, the government frequently resorted to the procedural option of adopting decisions without formally convening a government session and at the end of December 2021, extended the level of "confidential" for another five years for audio recordings from the sessions. Government sessions are now online broadcasted.

As for local governance, there has been some progress reflected in more efficient and better-quality strategic planning processes at local level. Twenty-three municipalities developed their Strategic Development Plans. All municipalities in Montenegro established local employment partnerships.

The "Europe Now" programme affected revenues of municipalities, decreasing revenues in some local governments even up to 75%, as compared to February 2021. At the same time, municipalities received lower contributions from the Equalization Fund, which hampers sustainable budgeting, especially for the poorest municipalities.

New local government governments were established in Cetinje, Mojkovac and Petujica, following the December 2021 local elections, and in Ulcinj and Berane following elections in March 2022. On 31 March 2022, the government dissolved the Municipal Assembly in Budva, on the grounds of not performing its competencies for more than six months and appointed a Board of Trustees, which elected in August 2022 a new mayor of Budva who will exercise its functions until the new local elections take place.

Women's political participation remains low at the local level. For the most recent local elections in Berane, two electoral lists were submitted and confirmed, even though they failed to ensure the legally binding quota of 30% of women candidates. There is a need to introduce mandatory gender budgeting and assign more funds to women's entrepreneurship at local level and to ensure gender mainstreaming at all levels of decision making, policy planning and implementation.

#### Civil society

The role of civil society is recognised and promoted, although the current legal and institutional framework needs to be further improved to strengthen the consultation and cooperation mechanisms between state institutions and civil society in the context of the EU accession process. Amendments to the Law on free access to information and the Law on volunteering are yet to be adopted. New members of the Council for Cooperation of State Bodies and Non-Governmental Organisations need to be appointed, so that it can resume its work. Although funding rules to civil society organisations (CSOs) are in place, only a few ministries launched calls to award grants to such organisations. The quality of cooperation between state bodies and civil society would be enhanced if ministries had greater capacity to carry out strategic planning, monitoring and evaluation of the support they provide to CSOs.

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

The overall legal and institutional framework on freedom of expression, of association and assembly is in place. Draft amendments to the Law on access to information, drafted in consultation with civil society organisations are pending adoption. Information classified by public institutions and withheld from the public remains an issue, as in practice this restricts the access of CSOs and the public to key policy decisions. This concern needs to be addressed as a matter of priority. Montenegro does not have a law on volunteering, which would be needed to promote and regulate volunteer work in CSOs and hence increase their human resources. After the 2018-2020 strategy for cooperation with NGOs expired, a new (2022-2026) strategy was adopted in July 2022.

The role of civil society in the accession process is recognised and promoted at political level and CSOs are represented in working groups devoted to the chapters of the EU accession negotiations. In 2021, most ministries appointed representatives of CSOs to working groups in charge of drafting laws and national strategies in their respective areas; this is an obligation

under the Law on public administration. However, not all ministries conducted public consultations when draft laws and strategies were prepared. A significant number of laws were adopted without prior consultation of civil society. The consultation mechanisms with civil society need to be further improved, in order for it to become useful and effective.

The Council for Cooperation of State Administration Bodies and Non-Governmental Organisations, a body consisting of an equal number of state officials and CSO representatives, held only one meeting in 2021. The Council rules were amended in July 2021, to make its work more transparent, in compliance with the new Decree on the organisation and operation of state administration. Under these amendments, documents discussed by the Council and minutes of its meetings are published. External participants and representatives of vulnerable groups can be invited to its meetings when relevant. However, no new Council members have been appointed so far following the expiry of the Council's term of office in September 2021. If the Council is to fulfil its function effectively, it will need to improve its visibility and its outreach to CSOs and make sure that its rules function.

The rules for public funding of CSOs require all ministries to conduct consultations with CSOs on their annual funding priorities, to publish open calls and to award grants through a selection process involving external evaluators. Some EUR 3.7 million from the state budget were allocated to CSO projects in 2021, including EUR 928 302 to co-finance 25 CSO projects supported by the EU. However, not all ministries have launched calls to award grants to CSOs, despite the obligation to do so, laid down in the Law on NGOs. In some cases, contracts with CSOs were signed but funds were not disbursed. New external evaluators were selected to improve the quality of the evaluation. However, 90 % of the newly selected evaluators were the same as in the previous year. The capacity of ministries to monitor and evaluate projects implemented by CSOs is still to be strengthened. Some EUR 4 million were allocated for funding or co-funding CSO projects in 2022.

CSOs can also access funds at local level, according to the Law on local self-government. However, most of the local authorities do not launch calls, or, when they do so, the transparency of the process needs to be improved.

### 2.1.2. Public administration reform

Montenegro is **moderately prepared** on the reform of its public administration. Overall, **limited progress** was made, including the adoption of the new 2022-2026 strategy for public administration reform. Conversely, the effects of the reorganisation of the public administration and the amendments to the Law on civil servants and state employees adopted in 2021 continued to be felt, with staff changes, a loss of know-how on EU accession process-related matters and an overall slowing of the pace of reforms. The lowered requirements introduced by these amendments are a source of continuing concern with regard to the merit-based recruitment, competence and independence of civil servants. Furthermore, draft amendments of the Law on local self-government would similarly lower such requirements at the local level. Amendments to the Law on access to information remain to be adopted by Parliament. Effective lines of accountability within the administration are still to be established.

Strong political will is needed to effectively address issues related to merit-based recruitments, optimisation of the state administration and implementation of managerial accountability. Most of the recommendations from 2021 remain valid. In the coming year, Montenegro should in particular:

- implement the new public administration reform strategy, in line with the relevant action plans and mid-term budgetary framework; adopt the new public financial management reform programme and start its implementation;
- improve Montenegrin citizens' access to public information by finalising, adopting and



implementing amendments to the Law on access to information in line with the principles of good public administration;

→ ensure effective lines of accountability between and within the institutions; amend the Law on civil servants and state employees and the Law on local self-government in order to ensure recruitments according to the principles of merit, competence and transparency.

#### Strategic framework for public administration reform

Given that the previous **2016-2020 public administration reform (PAR) strategy** had expired in 2020, the year 2021 was without a strategic framework until the year's end. The government adopted a dynamic action plan for October-December 2021 covering issues not completed under the previous strategy, but results remained limited given the main focus on developing the new strategy.

In December 2021, the government adopted a **new PAR strategy for 2022-2026** and an action plan for 2022-2024. Civil society organisations were actively involved in the preparation of the new strategy. Political support for public administration reform continued to be ensured through the PAR Council, chaired by the Prime Minister, with three sessions in 2021. The PAR strategy is linked to annual budgeting and the mid-term budgetary framework. However, reliance on donor funding continues to be substantial.

The overall **quality of strategic documents** produced over the reporting period improved, and the documents are largely aligned with the standards set out in the decree for strategic planning and related methodology. Proper costing of strategic documents and their linkages to the budgetary process require particular attention.

#### Policy development and coordination

In Montenegro, the **legal framework** for policy development is in place. In January 2022, the government adopted its medium-term work programme covering 2022-2024, with a detailed work plan for 2022. However, the priority pillars and objectives from the work programme are still neither interlinked nor aligned with the programme structure of the budget.

**Institutional structures** for a coherent policy-making system and coordination are in place. However, the central coordination and quality control role of the General Secretariat of the Government needs to be strengthened.

**Evidence-based policy-making** continues to be only partially ensured. While administrative data collection has improved, the quality of data has yet to be enhanced. Regulatory impact assessments are systematically produced, but their quality needs to be further improved. The legal requirements for inter-ministerial and public consultations are in place. However, the quality of the public consultation process in terms of both set-up and follow up has yet to be improved. Public scrutiny of the government's work should also be further strengthened. Most government policy reports are activity- rather than results-based, making it more difficult to measure achievements. Communication with the public on ongoing reforms needs to be improved.

#### Public financial management (PFM)

The implementation of the action plan for the **2016-2020 PFM reform programme** was extended to 2021, allowing for the consolidation of previous results in programme-based and gender-sensitive budgeting, performance budgeting and the gradual implementation of a mid-term budgetary framework. However, the action plan was not extended to cover 2022. The adoption of amendments to the Law on budget and fiscal responsibility to consolidate these reforms, including the establishment of a fiscal council, is still pending. The state budget

electronic system was considerably improved but challenges remain over the inclusion of all public institutions in the centralised salary system and with regard to interoperability of the different IT systems in place.

A new **2022-2026 PFM reform programme** and action plan for 2022-2024 are yet to be adopted. Activities are expected to focus on management of public investments, debt and fiscal risks, notably on reform of state-owned enterprises, and on commitment and assets management and accrual accounting. Reforms in these areas will also contribute to implementation of several national development strategies and the economic reform programme. Further fine-tuning of programme-based budgeting, performance budgeting and internal control systems, as well as increased alignment between strategic planning and mid-term budgetary framework, have the potential to bring about deep modernisation of the public finance management system in the next few years. Public finance management at local level should be included in the new PFM reform programme.

As concerns **digitalisation** in the PFM area, the interoperability of various IT systems remains an issue. Some efforts took place to improve budget planning and the central calculation of salaries but the interlinkage of other systems, especially the treasury system, still needs to be completed or established. This is delaying significant progress on PFM, on issues such as the introduction of accrual accounting, and the full development of performance budgeting.

On **budget transparency**, continuous improvements to programme-based budget classification, with programme goals and performance indicators, have contributed to better clarifying the link between high-level strategic and policy objectives and annual and multi-annual budgets. However, weaknesses in monitoring and reporting still limit the analysis on effectiveness of spending and efficient service delivery. A citizens' budget and new templates for in-year and annual budget execution reports, including non-financial and performance information, are yet to be adopted and implemented.

#### Public service and human resources management

The Human Resource Management Authority continues to proactively manage civil service **training** in horizontal areas, but a training needs analysis is yet to be carried out. On human resource management, improvements were made to **registers** on the number of employees at the central level.

Amendments to the **Law on civil servants and state employees** adopted in 2021 lowered qualification requirements for the recruitment of civil servants, affecting merit-based recruitments, and the competence and independence of the public service. The criteria for dismissals were not transparently applied. This continued to affect the pace of public administration reform during the reporting period.

#### Accountability of administration

Amendments to the **Law on access to information** are still to be adopted by Parliament, the aim being to increase transparency in the work of public bodies and to grant Montenegrin citizens easier access to information. Implementing legislation on the reimbursement of costs in the access to information process was adopted in October 2021. In December 2021, Parliament dismissed two members of the Council of the Agency for Personal Data Protection and Free Access to Information, acting as an executive board of the agency. This has effectively incapacitated the decision-making of the agency, including the review of appeals against decisions of first-instance authorities on requests for public information.

As concerns **lines of accountability**, the legislative framework for the supervision of the work of state administration bodies is in place, with the lines of responsibility of the ministries as well as their respective bodies defined. However, the functioning of this framework is yet to be improved, ensuring that the reports and annual plans of the subordinate authorities submitted for formal approval to the relevant ministry are result-oriented, with objectives, targets and measurable indicators.

The **organisational set-up of the state administration** has not been fully aligned with the Law on state administration. Reorganisations of the state administration conducted during the reporting period were made without sufficient *ex-ante* analysis or strategic approach. However, in May 2022, Parliament adopted amendments to the Law on state administration, limiting the number of state secretary posts in the public administration. This has resulted in fewer political appointments in the public administration.

#### Service delivery to citizens and businesses

Overall, while Montenegro has made some improvements in the area of digitalising services, the progress in public service delivery remained slow. There was a lack of clear ownership and leadership for the development of public services in general. **Administrative procedures** remained bureaucratic and complicated, and there was no evidence of work on harmonising implementing legislation with the Law on administrative procedures during the reporting period.

In December 2021, the government adopted the 2022-2026 strategy for the **digital transformation**, with two main objectives: improving capacity for digital transformation, and strengthening digital awareness of Montenegrin society and digital competitiveness of the information and communication technology sector. December 2021 also saw the adoption of Montenegro's 2022-2026 cyber security strategy. The strategy envisages activities to improve cyber-security in the country and establish a centre for cyber security.

The programme for attracting '**digital nomads**', adopted by the government in December 2021, aims to make Montenegro a globally attractive destination for digital experts. The **Law on electronic documents** is yet to be adopted. The purpose of this law is to contribute to accelerating digital transformation and to encourage the use of electronic documents, digital signatures and electronic seals in public administration and economy. The law is also expected to bring savings on administration and more streamlined procedures.

To achieve efficiency in work, reduce the use of paper in public administration and reduce the costs, the '**paperless administration**' project was piloted in the Ministry of Public Administration, the Human Resources Management Authority and the Ministry of Justice and Human and Minority Rights. All document exchanges between these institutions are now done electronically.

During the reporting period, the **Code for Montenegro** was drawn up as a platform volunteering to solve citizens' problems and challenges. The idea of the platform is to transfer good practices in the area of digital transformation from private industry, civil society and academia to public administration.

## **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. An effective (independent, high quality and efficient) judicial system and effective fight against corruption are of paramount importance, as is respect for fundamental rights in law and in practice.*

Montenegro remains **moderately prepared** to apply the EU *acquis* and the European standards in this area and has made **limited progress** overall. Limited progress was made in the area of the judiciary, with no progress on the implementation of key judicial reforms and a limited track record on judicial accountability.

Corruption and high-level corruption remain issues of concern and are prevalent in many areas. Some progress has been made in the prevention of corruption, but progress was limited in the repression of corruption. Further efforts are needed to establish a credible and effective criminal justice response. A new strategic framework is needed, which should foster an integrated approach, focusing on the prevention and repression of corruption.

On fundamental rights, Montenegro continued meeting obligations from international human rights instruments and legislation; however, challenges remain in ensuring the effective implementation of national legislation, in particular for the most vulnerable groups. While Montenegro benefits from a pluralistic media environment, progress was limited on freedom of expression and media freedom. Full and effective protection of journalists and other media workers and further alignment of the media policy and legal framework with the EU *acquis* remain to be ensured.

#### Functioning of the judiciary

Montenegro's **judicial system** is moderately prepared, with **limited progress** overall. The implementation of key judicial reforms remains stalled. Certain long-pending high-level judicial appointments took place, bringing more stability to the justice system, but several others are still pending, including at the Constitutional Court, which require a qualified majority in Parliament; this process must ensure the merit-based appointment of individuals able to act independently, impartially and with integrity. Concerns remain over the institutional performance and consolidation of independent Judicial and Prosecutorial Councils. The track record on judicial accountability remains limited. Effective independence, integrity, accountability and professionalism of the judiciary need to be further strengthened, including by implementing the relevant constitutional and legal framework and by adopting legislative changes in line with European standards. The efficiency of the judiciary also needs to be strengthened. The human, financial, ICT and infrastructure management systems must be substantially improved. The adoption of a new strategy for the rationalisation of the judicial network is still pending, as is the implementation of the ICT strategy for the judiciary. Montenegro continues to make progress on the domestic handling of war crimes, with good judicial cooperation with neighbouring countries and with the International Residual Mechanism for Criminal Tribunals (IRMCT).

Last year's recommendations have not been met and remain largely valid. Therefore, in the coming year, Montenegro should in particular:

- ensure the consolidation of merit-based key judicial appointments of individuals able to act independently, impartially and with integrity. This includes the members of the Judicial Council, the Supreme State Prosecutor, and judges at the Constitutional Court;
- avoid reversing earlier achievements, ensure the effective independence and professionalism of the judiciary by addressing in substance all the outstanding recommendations of the Venice Commission and the Council of Europe Group of States against Corruption (GRECO), and by fully and unambiguously implementing the relevant constitutional and legal framework;
- ensure the independence, accountability, integrity and impartiality of the justice system by improving the institutional performance and operational capacity of the Judicial and Prosecutorial Councils and by reviewing and effectively implementing the disciplinary and ethical framework for judges and prosecutors to strengthen its objectivity, proportionality and effectiveness;

→ improve the efficiency of the judiciary by adopting and implementing a new strategy for the rationalisation of the judicial network, and by starting to implement the ICT strategy for the judiciary.

#### Strategic documents

The implementation of the 2019-2022 strategy for the reform of the judiciary is ongoing and a Council was set up to monitor this in November 2021. The 2021-2022 action plan for the implementation of the strategy was adopted in December 2021 and a mechanism for monitoring its implementation is in place. The Ministry of Justice is yet to demonstrate unreserved commitment to full and timely implementation of all segments in the judicial reforms.

#### Management bodies

The Judicial and Prosecutorial Councils are the principal bodies managing the judicial system and the careers of judges and prosecutors. Their composition and appointment procedures are broadly in line with European standards. However, outstanding issues with regard to the functioning of both councils remain an issue of concern, namely due to their incomplete composition. The Judicial Council's independence from undue political influence, for instance due to the *ex officio* participation of the Minister of Justice, as identified by the GRECO, is yet to be strengthened.

Moreover, the Venice Commission's recommendations in its 2021 Opinion on the revised amendments to the Law on the State Prosecution Service concerning risks of politicisation of the Prosecutorial Council have not been addressed in full, since they entered into force in June 2021. New lay members continue to be voted in by simple majority in Parliament, an issue on which the Venice Commission already provided recommendations in 2014 and 2015, and which remains to be addressed in order to mitigate the risks of undue political influence over the Council.

It is essential that Montenegro address these issues in order to avoid reversing its earlier achievements on justice reform. Additional guarantees need to be put in place to mitigate the risks and perception of undue political influence over the Judicial and Prosecutorial Councils.

In June 2022, the General Conference of Judges elected four judges as new members of the Judicial Council. These took office in August after the term of office of the Council's previous judicial members expired. However, the Judicial Council's long-lasting functioning in an incomplete composition has been undermining its ability to take decisions that require a two thirds majority, such as the appointment of the Supreme Court President, and causes frequent delays in the exercise of some important powers, with a negative impact on the overall functioning of the justice system. This means that instead of 10 members, the Council currently has three lay members, four judges and the acting President of the Supreme Court. Due to the inability to secure a qualified majority in Parliament for the election of the Council's lay members, a temporary anti-deadlock mechanism introduced in 2018 continues to be applied and the term of office of three lay members has been extended several times and are currently in their ninth year in office, while the Constitution limits the term of office to four. In August 2022, the Parliament failed to replace the lay members in the first round of voting following a selection procedure that started in May 2022 even though up to 35 eligible candidates applied. In September the Parliament appointed one of the required lay members. In January 2022, the Prime Minister took on the role of acting Minister of Justice, Human and Minority Rights, but did not participate in the work of the Judicial Council as an *ex officio* member in this capacity.

Following the proclamation of the new Prosecutorial Council in August 2021, the Council did not hold any session until early 2022 due to its incomplete composition. In December 2021, Parliament appointed five members from the ranks of eminent lawyers, including one representative of non-governmental organisations (NGOs). This allowed the Council to restart its functioning. In February 2022, it unanimously appointed a new acting Supreme State Prosecutor from the ranks of prosecutors, as recommended by the Venice Commission in its 2021 opinion. However, the appointment of a permanent Supreme State Prosecutor, requiring a qualified majority in Parliament, is pending since October 2019.

In February 2022, the Prosecutorial Council terminated the mandate of the former Chief Special Prosecutor and nine other prosecutors due to their meeting the conditions for retirement. In March 2022, the Council appointed a new Chief Special Prosecutor with a large majority (10 votes in favour and 1 against). At the request of the new Chief Special Prosecutor, in June 2022 the Prosecutorial Council reassigned three additional state prosecutors to the Special State Prosecutor's Office.

Following organisational changes, the Prosecutorial Council has yet to consolidate its regular work and practice.

The operational capacity of both councils' secretariats continues to improve but needs to be strengthened further. The 2022 budget of the Judicial Council was increased by 51.6% compared to the previous year, mainly due to the planned procurement of software. The lack of adequate spatial/working conditions for the Judicial Council and its Secretariat remains a long-term concern. The 2022 budget of the Prosecutorial Council was reduced by 15% compared to the previous year. The administrative capacities of both the Judicial and the Prosecutorial Councils have still to be improved. These include strategic, budget and human resources planning and management, and public communication. The 2022 Law on the budget established for the first time a system of distribution of financial resources by courts and prosecution offices individually. Results-based financial management in the judiciary is being gradually introduced across the board, with initial steps undertaken in 2020 and a number of internal financial procedures/regulations revised and codified in 2021. However, although key performance indicators in courts and prosecution offices, and methodology for performance-based financial management, are being piloted at basic court level, the methodology and tools for performance-based financial management and control are yet to be established. Overall, resource levels do not match judicial performance targets.

The transparency of both councils continues to improve. The sessions of both councils are open to the interested public (media, NGOs). The transparency of the councils' work needs to be further enhanced by publishing fully reasoned decisions on promotions, appointments and disciplinary cases. Members of both councils should devote more time and show full commitment to performing their functions. The Prosecutorial Council needs to demonstrate a more proactive approach to addressing issues within the public prosecution service, including with respect to the professional performance of the heads of state prosecution offices and of state prosecutors themselves, including their accountability and professionalism.

Further efforts are needed to effectively consolidate strong and independent Judicial and Prosecutorial Councils, to substantially improve the functioning of the entire judicial system and restore trust in it.

#### Independence and impartiality

Following the 2013 amendments to Montenegro's Constitution, judicial independence was strengthened by increasing the safeguards against the risks of undue political influence over appointments. Overall, the legal framework guaranteeing judicial independence is in place,

but the judiciary and the prosecution service continue to be perceived as vulnerable to political interference, including due to some deficiencies that still need to be addressed in the relevant legislation. In this regard, a firmer commitment is needed to ensure the full and effective independence, integrity, and impartiality of Montenegro's justice system. This includes fully and unambiguously implementing the relevant constitutional and legal framework and amending it as relevant in line with European standards. Political leaders should refrain from statements that undermine the independence of the judiciary and the autonomy of the state prosecution service.

The underlying constitutional and legal framework limits the appointments of court presidents to maximum two terms in order to prevent over-concentration of power. However, three basic court presidents re-appointed for at least a third term of office between 2019 and 2020 are still in office. Four public calls for the election of a new President of the Supreme Court were unsuccessful. Following the retirement of the Deputy President of the Supreme Court in August 2021, the Council appointed the acting President of the Supreme Court to the position of member of the Judicial Council in September 2021. In March 2022, the Judicial Council elected 11 judges to the Supreme Court. With these appointments, the quorum for holding the Supreme Court's General Assembly was met, so the Court can now propose a candidate for President of the Supreme Court. The Judicial Council has yet to appoint the new President of the Administrative Court; the position has been vacant for more than twelve months.

The head of the basic state prosecution office in Podgorica was appointed in May 2022.

The random allocation of cases is provided for by the Law on courts and implemented automatically through the judicial information system (JIS). However, limitations remain in very small courts, and the system has not been introduced in the misdemeanour courts. In 2021, a significantly smaller number of cases (114) was delegated among the courts, including 86 cases delegated at the level of basic courts and 28 cases delegated between the two high courts. Although establishing clear criteria for reallocation of cases is still needed, this reduction is an improvement in the practice of reallocation of cases between courts, and one which ensures the right to a lawful judge.

The Constitutional Court continues to operate in an incomplete composition. Following the resignation of one of its members in January 2022, the Court operated with four instead of seven judges, which in practice meant that unanimity was required for the Court to take decisions, undermining its ability to function, its performance and efficiency. In July 2022, the procedure for appointing new judges failed in Parliament, due to a lack of political agreement on the seventeen candidates. The Parliament then published a new call to fill the four positions and the procedure is ongoing. Furthermore, one judge retired in September 2022, so the Court currently counts with only three members. Therefore, the Constitutional Court lacks the required quorum to take decisions and is unable to operate.

#### Accountability

The revision of the Law on the Judicial Council and judges is ongoing. The revision will address notably the disciplinary and ethical liability of judges and the criteria for the appointment, promotion and professional evaluation of judges.

In April 2022, one basic prosecutor was arrested and detained on suspicion of abuse of official position. In May 2022, the President of the Commercial Court of Montenegro was arrested and detained on suspicion of organising a criminal group, corruption and embezzlement. Following the arrest, the President was temporarily removed from office,

pending completion of the investigation and the decision on prosecution. The Judicial Council then appointed an acting President.

The promotion and enforcement of codes of ethics and disciplinary accountability standards and procedures for judges and prosecutors remain limited. There is a limited track record and a lack of commitment from both the Judicial and Prosecutorial Councils to ensuring accountability. The legal framework for disciplinary issues and ethics for judges is being reviewed. Further improvements and effective enforcement of the judicial inspection system are needed, including more thorough and unannounced inspections.

The system for detecting breaches of integrity rules needs to be made more effective, objective, consistent and credible. There is also a need to ensure the follow-up of all cases that give grounds for disciplinary or ethical responsibility. A legal remedy against decisions of the ethical commissions of both councils has yet to be introduced by the relevant law. The decisions of the Prosecutorial and Judicial Councils remain insufficiently motivated and case-law is yet to be developed.

The Ethical Commission of the Judicial Council did not perform its duties for 7 months (August 2021 – March 2022) due to its incomplete composition. In March 2022, the General session of the Supreme Court appointed one of its members to the Ethical Commission of the Judicial Council, creating conditions for the Commission to resume its work. In 2021, four disciplinary proceedings were launched before the Judicial Council's Disciplinary Commission, while no violations of the Code of Ethics for judges were found in 2021. Overall, in 2021 the Commission issued nine decisions and two opinions. During the first half of 2022, 26 disciplinary proceedings were initiated against judges due to failure to submit their declarations of assets and income to Agency for the Prevention of Corruption. So far, five have been rejected as unfounded. In 2022, one violation of the Code of Ethics for Judges was found by the Ethical Commission of the Judicial Council. The Law does not provide for any legal remedy against the Commission's decisions. In June 2022, the Ethical Commission adopted the guidelines on the freedom of expression of judges.

The Ethical Commission of the Prosecutorial Council has not performed its duties since the appointment of the new composition of the Prosecutorial Council in August 2021. In 2022, 6 initiatives were pending before the Ethical Commission of the Prosecutorial Council. In two cases, the Commission found violations of the Code of Ethics for state prosecutors, while three initiatives were considered unfounded. Furthermore, in 2021 two disciplinary proceedings were brought before the Prosecutorial Council's Disciplinary Commission, while in 2022, disciplinary proceedings were initiated against one state prosecutor. In one case, the Commission found a violation of disciplinary rules and imposed a sanction consisting in a 20% salary decrease for 3 months.

The approach of the Ethical Commissions of the Judicial and Prosecutorial Councils to handling cases is still not sufficiently effective and consistent.

In 2021 and 2022, judicial inspectors from the Ministry of Justice, Human and Minority Rights performed supervision of the work in 21 courts, nine state prosecution offices, 53 notaries and 28 public bailiffs. No irregularities were found during the supervision of the courts in 2021. In 2022, irregularities were observed in two basic courts. No irregularities were found during the supervision of the prosecutor's offices. Judicial inspectors conducted 43 inspections of the work of public notaries and found three irregularities during the supervision. Two new inspectors were hired in January 2022; however, the Ministry's capacity in this area still requires significant strengthening. The law on systematisation of the Ministry plans to increase the number of judicial inspectors to five.



There were no significant results on the accountability of independent legal professions. The new Code of Ethics for Lawyers has not yet been adopted. In August 2021, the new Code of Ethics of the Association of Court Experts was adopted. Implementation of the codes of ethics of notaries, bailiffs and court interpreters remained limited and needs to be further enhanced. The self-regulatory roles of the chambers and professional associations of legal professions must also be enhanced further.

#### Professionalism and competence

Montenegro continues to organise single nationwide competitions for judges and prosecutors. The 2020-2022 plan for vacant judicial positions was amended several times during 2021, given the large number of resignations and retirements. In the reporting period, the Judicial Council elected four court presidents, nine judges of the High Court, eight judges of basic courts, seven judges of misdemeanour courts, and 51 candidates for judges, while the procedures for appointing several court presidents and more judges are ongoing. In 2021, one judge was voluntarily reassigned. The procedure for appointing the Administrative Court president has been ongoing for more than 8 months.

In 2021, the Prosecutorial Council elected two prosecutors to the Supreme State Prosecution Office, nine heads of prosecution offices, five prosecutors to High State Prosecution Offices and two prosecutors to the Basic State Prosecution Offices. In July 2021, the Prosecutorial Council appointed three special prosecutors, while one state prosecutor was voluntarily assigned on a permanent basis to the Basic State Prosecutor's Office in Podgorica.

Implementation of the system of regular professional evaluation of judges and prosecutors is affected by both council's inactivity. In 2021, no judges and only one state prosecutor were evaluated using the regular assessment scheme. During the reporting period, the evaluation of 101 judges as part of the promotion procedure was completed. In 2021, four prosecutors were evaluated under the promotion procedure.

The interpretation of legal conditions for the retirement of judges and prosecutors is disputed after the 2020 Law on pensions insurance lowered the general age requirement for the right to a pension for public officials, deviating from provisions in the general body of labour law. In August 2021, the Judicial Council declared the termination of the judicial function of 23 judges, based on their having met the conditions for retirement. Of these 23 judges, 11 initiated proceedings before the Constitutional and Administrative Courts, challenging the decision of the Judicial Council. Proceedings before the Constitutional and Administrative courts are ongoing. In February 2022, the Prosecutorial Council declared the termination of the prosecutorial function for 10 state prosecutors, based on their having met the conditions for retirement.

#### Quality of justice

The budget for the judiciary for 2022 is EUR 37.3 million (2021: EUR 36.5 million) and remains above the regional per capita average. Montenegro had 268 full-time judges (43 per 100,000 inhabitants) and 111 full-time prosecutors (18 per 100,000 inhabitants) in 2021. According to the European Commission for the Efficiency of Justice (CEPEJ), the European averages are 21 judges/12 prosecutors per 100,000 inhabitants. has 50 judges (60% of whom are women) and 19 prosecutors (over 62% of whom are women) per 100 000 inhabitants, far above the European average of 17 judges and 11 prosecutors. Collection of court fees remains much lower compared to the region.

The allocated budget for the work of the Centre for Training in Judiciary and State Prosecution Service for 2022 amounts to EUR 437 754, which is below the legally established threshold. While the Centre continued to be financially supported by the EU and

other international donors, its autonomous and self-sustainable functioning will need to be ensured. There is continued improvement in the overall functioning of the Centre and its staffing levels. However, its administrative, managerial, strategic planning, communication and financial management capacities are still to be improved. At the beginning of 2021, there were 16 employees in the Centre, whereas at the end the reporting period, there were 12 employees instead of the 19 posts officially allocated to the Centre.

In 2021, the former judicial training programming was replaced by a comprehensive training needs assessment (TNA) conducted by the Judicial Training Centre, following which a general annual training programme for 2022 was developed. Efforts are needed to involve more judges and prosecutors in the TNA process and further improve training delivery and evaluation practices. TNA should take into consideration the multidisciplinary and practical nature of judicial training, essentially intended to transmit professional techniques and values complementary to legal education. The Centre must develop capacity to conduct assessment on training needs in connection with meeting rule of law standards and implementing the EU *acquis*, and to design and implement corresponding training activities. The total budget allocated to training initiatives at the training centres and to other initiatives implemented directly by courts and prosecution offices in 2021 amounted to EUR 422 455, a 46% decrease on the previous year.

The results of the 2021 Report on European Judicial training showed that in 2020 Montenegro had the highest percentage of judges participating in continuous training in EU law among all candidate countries and potential candidates, at nearly 20%. It is important to establish regular cooperation and more frequent communication between the Judicial Training Centre and the Judicial and Prosecutorial Councils. The organisation of meetings between the representatives of these institutions in December 2021 is a step in the right direction.

The positive trend in **alternative dispute resolution (ADR)** continued. The implementation of the new law, which provides for the compulsory recourse of this mechanism to the types of cases that are suitable for ADR, started in August 2020. In 2021, the ADR system continued to expand, with 1 315 settlements reached (2020: 1 269). In 2021, there were 6 106 mediation proposals preceding judicial litigation (2020: 1 540). However, the judicial system is not yet prepared to accommodate the increased use of ADR, since the implementation of the new ADR legislation is still not effective or being applied consistently in the competent courts. Further reforms should focus on strengthening the Centre's supervision, enhancing judges' and mediators' powers, and increasing the scope and quality of ADR services, especially in commercial cases.

#### Efficiency

In 2021, 118 568 cases (2020: 139 560) were pending before Montenegrin courts, 84 143 of which were new cases (2020: 80 723). Some 80,485 cases were resolved (2020: 83 206), and at the end of 2021 there was 37 963 cases pending. The number of cases older than 3 years was 3 794 at the end of 2021 (2020: 3 036). The disposition time, i.e. the average time from filing to decision, was 158 days in basic court cases (2020: 150), 197 for commercial cases (2020: 148) and 538 days before the Administrative Court (2020: 438).

As regards enforcement, the backlog of pending enforcement cases before the courts decreased. Some 760 cases were pending at the end of 2021 (150 000 in 2016). Since the introduction of the bailiff system in 2016, enforcement cases before the courts have gradually reduced. In 2021, 76 779 cases were filed with bailiffs' offices (2020: 66 085), with 47 217 cases pending at the end of the year (2020: 43 569). The centralised case management system

for bailiffs continues to be used consistently, guaranteeing data reliability. The enforcement of court decisions remains a challenge, due to the lack of effective follow-up by judicial authorities.

In 2021, the Constitutional Court received 1 344 new cases and resolved 1 498 pending cases. The current backlog is some 3 212 cases; 2 967 (around 92%) of those are pending constitutional complaints on human rights violations. Furthermore, there are 123 laws and 127 pieces of implementing legislation adopted by Parliament pending constitutional review. Concrete steps need to be taken to ensure adequate operational capacity necessary for the efficient functioning of the Court and to reduce the backlog of cases. Currently, 4 judges and 34 employees form the workforce of the court's professional service— this is around 60% of the officially allocated posts.

There were no developments on implementing recommendations from the analysis on rationalisation of the court network adopted by the government in October 2020. The analysis should serve as a basis for preparing a new strategy in this area. Drawing on the available data, conclusions from studies and cost-benefit analyses, reform in this area should aim to ensure better overall management of human resources and judicial infrastructure, ultimately leading to optimisation of the court network and the closing of small unviable courts.

Full implementation of instructions for collecting statistical data in compliance with the guidelines of the European Commission for the Efficiency of Justice (CEPEJ) remains a challenge. Issues also remained regarding the reliability and availability of statistical data for the judiciary in the absence of an advanced case management system. Data on the total length of proceedings is still not available. Statistical information on the performance of the judicial system is not systematically analysed or used for management and policy-making purposes.

The implementation of the ICT strategy and the 2021-2023 justice development programme are pending.

The efficiency of the justice system is hampered by the lack of effective systems for human resources and staffing, financial resources, ICT and infrastructure management. There is an urgent need for strategic investments in infrastructure. The allocated working space and working conditions in general at all levels of the judiciary are well below the minimum required European standards. There is an insufficient number of specialised judges and prosecutors and a lack of expertise in certain areas. Adequate ICT infrastructure and equipment in the judiciary is lacking. More efforts are needed to ensure the effective financial independence of the judicial system.

#### Domestic handling of war crimes cases

Montenegro continued to implement its war crime prosecution strategy, with limited results. In 2021, the Special Prosecutor's Office conducted preliminary investigations in seven cases concerning war crimes committed on the territories of Bosnia and Herzegovina and Croatia. In one case, relating to a request from Bosnia and Herzegovina for mutual legal assistance concerning one person, the authorities found that there was reasonable suspicion of the criminal offence. Another investigation was closed for lack of grounds for prosecution. Work on the remaining five cases continues.

Montenegro continued its good cooperation with neighbouring countries. In 2021, the Special State Prosecutor's Office acted upon 10 letters rogatory, and five letters rogatory from 2020. Good cooperation continued with the International Residual Mechanism for Criminal Tribunals (IRMCT). In the context of a file submitted by individuals believed to be Montenegrin nationals who are suspected of serious war crimes, one person was heard as a witness and exchanges continued with the prosecution services of Bosnia and Herzegovina.

Based on IRMCT recommendations, amendments are being prepared to the Criminal Procedural Code to proactively address the legal and practical obstacles to effectively investigate, prosecute, try, and punish war crimes in line with international standards. Work continued on legislative changes that would allow Montenegro to effectively investigate and prosecute conflict-related sexual violence cases.

In October 2021, the High Court of Podgorica upheld an indictment against a suspect; the trial is currently ongoing. In June 2022, the Special Prosecutor's Office submitted another indictment to the High Court of Podgorica.

During the reporting period, 30 claims for compensation were pending before the courts, all concerning the 'Morinj camp' case. Of those, 27 were fully or partially upheld, awarding the total non-pecuniary damages of EUR 196 876.66. The proceedings on three remaining cases are ongoing.

In October 2021, the Minister of Foreign Affairs attended the commemoration of the 30th anniversary of the Morinj camp. This was the first time for Montenegrin and Croatian authorities to visit the site together. In May 2022, for the first time Montenegrin authorities attended the gathering in Herceg Novi marking the deportation of Bosnian refugees in 1992 and publicly apologised to the families of deported refugees.

Montenegro continued to actively participate in the regional **Missing Persons group** and contributed to implementing the framework plan signed in November 2018. Cooperation continued with neighbouring countries under bilateral cooperation protocols. The list of missing persons compiled by the Commission on Missing Persons of Montenegro maintains records of 51 active cases who are Montenegrin citizens or whose families reside in Montenegro. Montenegro's legislative framework still does not include a specific law on missing persons.

#### **Fight against corruption**

Montenegro has achieved some level of preparation. **Limited progress** was achieved during the reporting period. Last year's recommendations were partially met. The track record on prevention of corruption further improved, in particular due to the positive trend of the work and performance of the Anti-Corruption Agency (ACA). However, more needs to be done to ensure the Agency's integrity, and accountability, and to improve its tangible results, in line with the recommendations of the peer review mission conducted in 2021. To demonstrate a credible criminal justice response, Montenegro still must improve its track record of investigations, prosecutions and final convictions in the fight against corruption, including high-level corruption. Furthermore, the legal and institutional framework must be improved in line with the EU *acquis* and European standards, including for the effective use of financial investigations and asset seizure and confiscation in such cases. The sectors most vulnerable to corruption require targeted risk assessments and dedicated action.

In the coming year Montenegro should in particular:

- review the legal framework and strengthen institutional capacities in the prevention and repression of corruption to address the issues identified with regard to its enforcement; as well as on financial investigations, and asset seizure and confiscation, to align it with international standards and with the EU *acquis* and European best practices;
- improve the track record on corruption, including high-level corruption, by imposing effective sanctions, and take concrete measures to improve the use of plea bargain agreements in exceptional cases for a more transparent, credible, deterrent and consistent sanctioning policy and criminal justice response;

→ adopt a new strategic framework, including to establish mechanisms for an integrated approach, for the prevention and repression of corruption to ensure overall coherence and improve interinstitutional coordination and cooperation.

#### Institutional framework

Overall, there is a need to effectively establish an integrated strategic approach to prevent and fight corruption. Interinstitutional cooperation and coordination between all bodies involved is paramount, as is ensuring coherence, clear definition and understanding of their mandates, roles, and responsibilities. The ACA's efforts on the prevention of corruption need to be complemented by a serious response on the part of law enforcement and prosecution service to combating corruption. Independent and efficient courts are also key to ensuring fair and timely judicial oversight and control of the actions of the ACA and of prosecutors.

#### *Prevention of corruption*

The **Anti-Corruption Agency (ACA)**, established in 2016, is the key institution for promoting integrity and preventing corruption in Montenegro. In implementing its activities, the Agency co-operates with several public bodies, including the prosecution services and the State Audit Institution. The results of the ACA's investigations are subject to court review. The Anti-Corruption Council, appointed by the President in July 2019 for a 4 year term of office, consists of five members and is responsible for the decision-making of the Agency and the appointment of its Director.

Overall, the capacities of the Anti-Corruption Agency continued to be strengthened. This resulted in improved performance and increased efforts to produce tangible results. The ACA and its Council continued to demonstrate consistent proactivity in their work, including by addressing the caseload from previous years, and increased their outreach activities towards the public, media and civil society.

However, the recommendations of the April 2021 EU peer review mission remain to be fully addressed. The mission focused on assessing the legislative and institutional framework on the prevention of corruption and to improve the capacities of the Agency, its performance, working methods and achieved results, in particular in the core areas of its mandate. Sustained efforts are required to meet the challenges relating to the Agency's priority-setting, selective approach, and quality of its decisions.

The Agency's financial independence must be effectively ensured. The Agency currently employs 55 people, while the rulebook on the systematisation of the Agency foresees a total of 75 posts. The 2021 EU peer review mission recommended that additional human resources be allocated to the ACA.

In 2021, the Agency developed the strategic work plan for 2022-2025, setting out the priorities in the work of the Agency for the upcoming period.

The Agency continued its communication activities and worked with civil society organisations, hosting an open day for NGOs in June 2021. The ACA also organised several anti-corruption campaigns in 12 municipalities. Moreover, the Agency conducted anti-corruption training, specifically targeting newly appointed public officials. In 2021, 17 trainings for 197 participants were organised. 21 anti-corruption training sessions for 217 participants were organised in the first half of 2022.

In 2021, the **National Council for the Fight against High-level Corruption**, established in December 2020 to address systematic problems related with high-level corruption cases and to increase transparency in the fight against corruption, focused on serious and high-level cases, including tobacco smuggling in the Port of Bar. In January 2022, the Prime Minister

dismissed the Deputy Prime Minister from the position of President of the Council, and consequently three Council members resigned and have not been replaced since. The National Council has not met since January 2022. There are multiple overlaps of the Council's powers with other institutions, most notably the ACA and the prosecution service, therefore its institutional role, relations with other bodies and its powers, as well as safeguards in this respect, still need to be adequately defined.

#### *Law enforcement*

In 2021, the **Special State Prosecutor's Office** for Organised Crime and High-level Corruption (SPO) reduced its staff to 48 members (2020: 54), including 12 special prosecutors (2020: 16). The SPO's capacity was boosted in June 2022 with the reassignment of three state prosecutors to the Office. However, further strengthening of the SPO's human resources capacity, including through specialisation, is still required. Poor office conditions, which hamper the efficient functioning of the SPO, remain a matter of concern and must be addressed swiftly.

#### Track record

The **track record** of investigations, prosecutions, and final convictions in cases of high-level corruption continued to improve but needs further consolidation.

In 2021, the Special State Prosecutor's Office opened investigations into **criminal offences of high-level corruption** in 15 cases against 70 individuals and 19 legal entities (2020: eight cases against 35 individuals and eight legal entities). Three indictments were lodged with the Higher Court of Podgorica against nine individuals, and 11 indictments against 68 individuals and 21 legal entities. Financial investigations have been launched in seven cases against 40 individuals and six legal entities (2020: four cases against 30 individuals and two legal entities).

In 2021, 21 plea bargain agreements were concluded in four cases against 21 individuals and nine legal entities; of these, 16 agreements were adopted by the court ruling, one agreement was rejected, and four agreements are pending the Court's ruling. In 2021, the High Court of Podgorica issued three final and enforceable judgements, resulting in a suspended sentence and imprisonment served in residential premises.

The Special Prosecutor's Office has launched investigations of two high-level corruption and organised crime cases; these investigations have led to arrests. On 17 April 2022, the former President of the Supreme Court was arrested on charges of suspicion of abuse of office and of creating a criminal organisation; the suspect remains in detention. On 10 May 2022, the President of the Commercial Court was arrested on suspicion of forming an organised criminal organisation, embezzlement, and abuse of office; he also remains in detention. In December 2020, Montenegro sent a new request to Serbia for the extradition of the former President of the State Union of Serbia and Montenegro, after the reply to its request from April 2019 had not been answered.

The legal approach to and track record on **financial investigations and confiscation of assets for criminal offences** in the field of high-level corruption needs to be substantially improved. In 2021, assets were temporarily frozen in three cases. There was initial progress in the use of extended confiscation in corruption cases, with a final confiscation in one case, and better understanding of the importance of launching parallel financial investigations.

The need for a more deterrent and consistent policy of sanctions to improve the criminal justice response to corruption and high-level corruption remains to be addressed. The use of plea bargain agreements must be exercised with extreme care, for the right purposes and

observing all necessary safeguards. A legal cost-benefit analysis in the interest of justice should be conducted systematically when this mechanism is used. In no case can the sanctions go below the legal statutory minimum. To improve its effective use, guidelines for the specialised courts and prosecution services need to be drafted.

**The track record on the prevention of corruption** continued to improve. Both the Agency and its Council demonstrated proactivity in their work and increased their outreach activities towards the public, media and civil society.

Significant progress was achieved in the number of verified asset declarations and in the Agency's application of in-depth verification procedures. In 2021, the number of administrative and misdemeanour proceedings initiated doubled compared to 2020. Despite the Agency's proactive approach to investigating and penalising breaches of the Law on the prevention of corruption in the area of asset declarations and threats to the public interest, there is still a significant backlog from previous years, particularly concerning high-profile cases.

In 2021, the ACA instituted 1164 proceedings before misdemeanour courts, which is more than twice to the figure for 2020 (510 proceedings). 808 proceedings were completed (including those from previous years) and sanctions were imposed in 88.6% of cases. In 2021, the Agency issued 136 direct misdemeanour orders (2020: 42). The total amount of fines, including direct misdemeanour orders, amounted to EUR 149 242 (2020: EUR 89 659). In 2021, the ACA requested seizure of material gains before the competent courts in one case, and the courts approved confiscation in two cases. In the first semester of 2022, the ACA submitted 812 requests to the competent courts to initiate misdemeanour proceedings for violations of anti-corruption laws.

Between January and June 2022, the Agency instituted 812 proceedings before misdemeanour courts, with the total amount of fines amounting to EUR 57 890.

In 2021, the Agency issued 186 opinions (2020: 135) on **incompatibility of functions and conflict of interest**. Some 26 public officials (2020: 41) resigned, and two (2020: one) were dismissed. Between January and June 2022, 119 opinions on incompatibility of functions were issued; eight public officials resigned, and two were dismissed.

In 2021, the ACA received 10 657 (2020: 8 108) **income and asset declarations**. Some 974 reports (2020: 966) were verified by the Agency, exceeding its annual plan by more than 10%. In 2021, the Agency initiated 295 administrative proceedings (2020: 138) and violations of the law were found in 160 cases (2020: 60). Sanctions were imposed in nine cases (2020:10). From January to June 2022, the Agency received 8 727 income and asset declarations and verified all reports. In the same period, some 390 administrative proceedings in the area of income reporting were initiated, a significant increase compared to previous years, and violations of the law were found in 205 cases.

In 2021, the Agency concluded additional checks of 20 high-level officials and continued to monitor the **lifestyle** of public officials, using publicly available data and media reports. The ACA also initiated procedures to examine the lifestyle of three public officials, with one case submitted to the prosecution services. Further work is needed to effectively address the April 2021 EU peer review recommendations on conflict of interest and incompatibility of functions and asset declarations.

Concerning **funding of political parties and electoral campaigns**, in line with its competences the Agency oversaw all local elections held in 2021. A total of 36 irregularities in the reports of political parties were registered. In 2021, out of 141 misdemeanour proceedings issued by the Agency (2020: 62), 128 concerned electoral campaigns.

During 2021, the Agency processed six complaints relating to electoral campaigns. One case was forwarded to the prosecution service, which subsequently found no violations. The Agency organised 10 meetings with civil society organisations on monitoring, supervision and control of electoral campaigns in five local elections.

In 2021, the **State Audit Institution** adopted the *Manual for auditors on detection of fraud and corruption through audit procedures* and the *Guidance for presentation of audit results to the general public*. The documents provide for an early response to suspicions of corruption and swift exchange of information with prosecution services, in line with the memorandum on cooperation between the State Audit Institution and Supreme State Prosecutor signed in 2018. The State Audit Institution published positive audit reports on annual financial statements from 2020 for 3 political entities, whilst regularity audits resulted in 5 positive, 4 negative and 2 conditional reports. In 2021, the State Audit Institution published one conditional report on annual financial statement and one negative regularity audit report for 1 political party. Based on previous data, the monitoring of political parties' financing by the ACA and the State Audit Institution produced limited results.

In 2021, the ACA received five requests for **whistle-blower protection** (three in 2020) and finalised five previous requests, awarding damages to whistle-blowers in three cases. The Agency received 142 reports on the threat to public interest (2020: 75), 28.2% of them were submitted anonymously, with 39 reports processed, and threats to the public interest identified in 15 cases (three in 2020). Ten reports were forwarded to the prosecution service, and 18 to other competent state institutions. The Agency identified irregularities in three cases.

Between January and June 2022, three requests for whistle-blower protection were submitted to the Agency; work on these is ongoing. In this period, the Agency received a further 89 reports on the threat to public interest, with 19 reports being processed, establishing a threat to public interest in four cases. Three reports were forwarded to the prosecution service.

Further sustained results are needed, including by increasing the ACA's human resources expertise, in line with the recommendations of the April 2021 peer review. Montenegro remains the only country in the region without a specific law on whistleblowing; the subject remains covered by the Law on the prevention of corruption<sup>2</sup>.

On **integrity plans**, in 2021, 692 reports (2020: 679) on the implementation of the integrity plans for 2020 were submitted to the Agency. 99.3% of authorities have an integrity manager in place. In 2021, the Agency introduced evidence-based methodology for assessing the application of anti-corruption measures in public institutions. The State administration and social and child protection services were selected to pilot the methodology.

On **lobbying**, the lobbying register includes six individuals and one legal entity. The new Commission on Lobbying was appointed and two calls for applicants were published in March and May 2022. The Anti-Corruption Agency participated in the work of the working group on amending the Law on lobbying established by the Ministry of Justice, Human and Minority Rights. Montenegro has yet to adopt the law.

In September 2021, the government adopted the **Code of Ethics for top executive officials**, in the form of non-binding guidelines, to implement rules on prevention of corruption. However, no disciplinary sanctions can be imposed until the Law on government is adopted in Parliament.

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<sup>2</sup> According to the peer review experts, the law should lay down an obligation for the institutions to report to the Agency in cases of internally filed reports.



### Legal framework

In March 2022, the government launched a thorough analysis of the Law on the prevention of corruption that is expected to lead to several recommendations for its amendment.

Key shortcomings identified in the legal framework for the **prevention of and fight against corruption** and its effective enforcement need to be addressed. The existing legal framework on **asset confiscation** needs to be reviewed and its effective enforcement must improve substantially, in line with the EU *acquis*, European standards and best practice. In this respect, Montenegro has yet to address in full the recommendations of the EU peer review missions conducted in 2019 and 2021 and the Council of Europe Group of States against Corruption (GRECO). Montenegro is preparing a new law on amending the Law on the confiscation of material benefit derived from criminal activities ('the Law on confiscation'), which will be central to improving the criminal justice response to the fight against corruption.

All shortcomings in the existing legal framework on **political parties' financing**, including those identified in recommendations of the OSCE Office for Democratic Institutions and Human Rights (ODIHR), are still to be addressed. The current legal framework does not provide for effective safeguards and sanctions against circumvention of the rules, which limits effective oversight. The legal framework regulating political parties and their funding still depends on the political parties themselves. Limited progress has been achieved on amending the rules on calculation and reporting of in-kind donations, in line with the Council of Europe's recommendations and aligning the annual financial reporting form with best accounting practice, which have been pending since 2014.

In December 2021, draft amendments to the Law on **free access to information** were proposed by the government but are pending parliamentary adoption. A working group to produce guidelines for proactive publishing of information has been set up. These steps should pave the way for increased transparency and accountability of public bodies towards Montenegrin citizens. In 2021, 5 285 complaints in relation to **free access to information** were filed (2020: 4328) and 351 complaints (8.57%) were rejected by the Agency for Personal Data Protection as unfounded, while 4 095 complaints were reviewed<sup>3</sup>.

### **Fundamental rights**

Montenegro is moderately prepared in the area of fundamental rights. The legislative and institutional framework is largely in place and Montenegro continues to meet its international obligations on human rights. However, additional efforts remain needed to implement it fully. The reporting period was marked by increased societal polarisation and division. Most vulnerable groups in society (including Roma and Egyptians, persons with disabilities, LGBTIQ persons) were increasingly subjected to discrimination, hate speech and hate crime. An increased number of femicides with insufficient follow up by the authorities, publicly expressed misogyny, gender-based violence and violence against children are issues of serious concern. More efforts need to be undertaken to ensure access to justice and the enforcement of rights in administrative and judicial proceedings in particular for vulnerable groups.

Last year's recommendations have been only partially addressed and remain valid. In the coming year Montenegro should in particular:

<sup>3</sup> The Agency's Director informed the media about continuous abuse of the right to access information, pointing that out of 3 491 complaints received in Jan-April 2022 almost half were filed by a lawyer from Podgorica in relation to payrolls of Podgorica school teachers. According to the Agency, these requests are not aimed at accessing data, but rather at gaining material benefits based on court costs (reportedly, several hundreds of thousands of euros).

- revise legislation to: increase protection against domestic violence, discrimination, hate crimes and hate speech; comply with 2018 UN Universal Periodic Review recommendation to prohibit the statute of limitations for criminal offences of torture and other forms of ill treatment; fully harmonise with the 2020 same-sex partnership law; to fully align with the Optional Protocol to the Convention on the Rights of the Child; criminalise all forms of marriage with a person under age 18 and to align protection of personal data;
- improve interinstitutional cooperation to achieve more efficient protection from all kinds of discrimination, better access to justice, full enjoyment of procedural rights, and free legal aid for victims of human rights violations and crimes, in particular children, women, persons belonging to minorities, including Roma and Egyptians, and persons with disabilities;
- ensure full operational capacity of the Constitutional Court and harmonised interpretation of ECtHR case law and European and international human rights standards throughout the court system.

As regards **international human rights instruments**, Montenegro continued its regular dialogue with international human rights organisations and monitoring bodies, the United Nations, and the Council of Europe. Montenegro fulfils its obligations under international human rights instruments and legislation. In June 2021, the government submitted a voluntary mid-term report on the level of implementation of recommendations from the 2018 Universal Periodic Review. In October 2021, the UN General Assembly elected Montenegro as new member of the UN Human Rights Council. On June 8 2022, the 'Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled' entered into force in Montenegro, allowing for copyright exceptions to facilitate the creation of accessible versions of books and other copyrighted works. Montenegro has yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), signed in October 2006, the Protocol of 2014 to the 1930 Forced Labour Convention, the 2019 ILO Violence and Harassment Convention (entered into force on 25 Jun 2021), or the 2019 Framework Convention on Tourism Ethics of the UN World Tourism Organization. Montenegro has yet to submit its reports to the International Covenant on Economic, Social and Cultural Rights – CESCR (due in 2019), the International Covenant on Civil and Political Rights – CCPR (due in 2021) and the International Convention on the Elimination of All Forms of Racial Discrimination – CERD (due in 2021).

Montenegro continued to ensure good cooperation with the **European Court of Human Rights (ECtHR)**. In the reporting period, 380 new applications concerning Montenegro were allocated to a decision body of the Court, bringing the number of applications pending before it to 291 on 15 June 2022. The ECtHR delivered judgements in six cases, finding five violations of the European Convention on Human Rights. While most violations related to the right to fair trial in connection with the length of proceedings, the Court also found one violation regarding the right to respect for private and family life. Currently, there are no cases under enhanced supervision by the Committee of Ministers.

On the **promotion and enforcement of human rights**, institutional capacities need to be further strengthened, including by allocation of appropriate funding. Fundamental changes in the management and structure of the Ministry, as well as politically biased appointments and dismissals during the reporting period affected its effective functioning and resulted in a slowdown in the drafting of new human rights legislation, strategies and policies, and the implementation and monitoring of existing ones.

The regulatory and institutional framework for the functioning of the Ombudsperson is in place. It is accredited with 'B' status from the Accreditation Subcommittee of the Global Alliance of National Human Rights Institutions. The Ombudsperson's Office continued to be perceived as the institution with the best impact and trust regarding the promotion and protection of citizens' rights. The views of the institution are often quoted in the media. The Office's capacity to handle complaints and the quality of its decisions continued to improve. Following a reduction in the budget for 2021 of around 6% compared to 2020, the adopted budget for 2022 increased 7.6% compared to 2021. In June 2021, the Ombudsperson published a special report on the situation of children in dormitories and boarding schools in Montenegro. In 2021, the Office worked on 1 123 complaints (2020: 1 075), 968 of which it received in 2021 and 155 of which were held over from 2020. In 2021, the Office closed 904 cases and deferred 219 to 2022. The closed cases related to civil rights, economic, social and cultural rights, prohibition of discrimination, rights of the child and the right to fair trial. The Office determined violations of rights in 124 cases and gave opinions with 343 recommendations to the competent authorities. Systematic, effective and prompt follow-up of the Ombudsperson's recommendations by the authorities improved.

The decisions of the Constitutional Court continued to be harmonised with human rights standards and ECtHR case-law. However, there are still cases where regular courts do not follow the Constitutional Court's decisions and interpretation of human rights standards. From the current backlog of 3 219 cases pending before the Constitutional Court, 2 967 (92%) are complaints on human rights violations. In September 2021, the ECtHR established a violation of the right to trial within a reasonable time before the Constitutional Court (*Siništaj vs Montenegro*). This might put at risk the 2015 ECtHR position on the effectiveness of the constitutional complaint as a legal remedy at the national level. Due to its incomplete composition the Constitutional Court lacks the required quorum to take decisions and is unable to operate.

As regards the **prevention of torture and ill treatment**, in May 2022 the UN Committee against Torture (CAT) concluded that Montenegro had only partially implemented its 2014 recommendations on ensuring or strengthening legal safeguards for detainees, conducting prompt, impartial and effective investigations, and prosecuting suspects and sanctioning perpetrators of torture or ill treatment. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT) carried out an ad hoc visit to Montenegro in June 2022. Amendments to the Criminal Code to comply with 2018 UN Universal Periodic Review recommendation to prohibit the statute of limitations for criminal offences of torture and other forms of ill treatment are not yet in place. Shortcomings in internal control, protracted and inefficient investigations, lenient and non-deterrent sanctions, and impunity for perpetrators of violence remain causes for concern. The government needs to increase its efforts to conduct efficient, effective and independent investigations to address police torture, violations, and illegal use of coercive measures. CSOs conducting monitoring visits noted an increased number of police officers who are aware of and apply the April 2021 instructions on the treatment of detainees and people under arrest. An official evaluation of the instructions' implementation is envisaged for late 2022. The National Prevention Mechanism (NPM) was strengthened through the appointment of a Deputy NPM in December 2021. The NPM did not work at full capacity for most part of 2021 due to COVID-19 affecting employees. During the reporting period, the NPM processed 91 cases, most of them concerning the Institute for the Execution of Criminal Sanctions (46) and the police (11). The NPM found evidence of inhuman and degrading treatment in two cases; seven cases are pending.

The NPM brought 27 cases over the conduct of police officers during the enthronement of the Metropolitan in the Cetinje Monastery on 5 September 2021. Of these, 21 related to the use of chemical agents, one to exceeding authorisation, two for restrictions on freedom of movement, two for destruction and damage to other people's property and one relating to the right to information). In two cases, a violation of rights was established; in two cases, no violation was found, while in two other cases the applicants were referred for other legal remedies. The proceedings in the remaining cases, which mainly deal with the excessive use of chemical agents, are pending. Despite the introduction of visible identification markings (names, surnames, number of official badges, etc.) on police uniforms and protective helmets enabling identification and efficient investigations, their use is not systematic.

Some progress was made towards implementing the CPT's 2019 recommendations on the **prison system** and conditions of detention. An evaluation of the implementation of the 2017-2021 strategy for the execution of criminal sanctions is ongoing. Staff reinforcement and capacity building continued, as well as programmes and activities available to prisoners. Existing prison facilities underwent some adaptation and modernisation. Preparations are ongoing to build a new prison facility in Mojkovac for the north of Montenegro, and a special health institution. Standard operating procedures for the prison system are being revised. Several NGOs implemented educational, recreational and vocational activities for prisoners. During 2021, juvenile convicts took part in various daily activities in the juvenile prison department, including sports, cultural and educational activities, and psychological and creative workshops for reintegration purposes. As of April 2022, there are a total of 614 convicts and 403 detainees, 3.65% of which are women (2020: 2.6%). In 2021, the NPM performed 32 out of 40 planned monitoring visits to prisons, detention and reception centres. During the reporting period, the NPM reported one case of inhuman and degrading treatment in prisons (ECHR Article 3) and established in one case that the material conditions of detention result in a degrading treatment; one case is pending. The Ombudsperson also issued three opinions with recommendations but established no violation of Article 3. Despite some improvement, the material conditions in prisons, pre-trial detention facilities and psychiatric hospitals are still below international standards. Pre-trial detention continues to suffer from overcrowding, with 350 occupants for 292 places. Conditions in the overcrowded Dobrota psychiatric hospital remain very poor.

**On protection of personal data**, Montenegro continued working on alignment with the EU *acquis*. The draft law on personal data protection is expected to be finalised in autumn 2022. Work is ongoing on alignment with other relevant parts of the EU *acquis* relating to investigating, detecting or prosecuting criminal offences or executing criminal sanctions. The human resources capacity of the Agency for Personal Data Protection and Free Access to Information needs to be further strengthened. The number of complaints is increasing, but overall awareness on personal data protection issues continues to be low. From 15 June 2021 to 23 June 2022, the Agency carried out 105 supervisions in the field of personal data protection. However, the Agency's work was blocked following Parliament's dismissal in December 2021 of the President and one member of the Council for Personal Data Protection. In August 2022, the Parliament appointed a new President and one member of the Council and on 12 August 2022 the constitutive session of the Council of the Agency was held in its new composition.

Several hundred compensation claims relating to protection of personal data are pending before the courts. The claims follow a first-instance court decision in May 2021 awarding compensation owing to the authorities' publication of a list of individuals subject to COVID-19 self-isolation measures in spring 2020, which was declared in violation of the Constitutional right to privacy by the Constitutional Court in July 2020. Montenegro has not

yet signed the 2018 Council of Europe Protocol amending the Convention for the Protection of Individuals regarding the Automatic Processing of Personal Data (CETS 223).

On **freedom of thought, conscience, and religion**, the government and the Serbian Orthodox Church signed in August 2022 a fundamental agreement, amidst protests from CSOs, several members of the government and some political parties, leading to a no-confidence vote and the subsequent fall of the government. Religiously motivated attacks, for instance during the enthronement of the Metropolitan in the Cetinje Monastery in September 2021 or on a bus transporting children and young people from Niksic in Cetinje in April 2022, are a matter of serious concern.

#### **Freedom of expression**

Montenegro has a pluralistic media environment and has achieved **some level of preparation** on freedom of expression. **Limited progress** was made on last year's recommendations. There were improvements to the legal framework on protection for journalists and other media workers was improved. Although the initial institutional response to recent cases of violence against journalists has been generally prompt, lack of effective judicial follow-up on important old cases remains a matter of serious concern. The findings and recommendations of the new ad hoc commission for monitoring violence against the media need to be effectively addressed by the relevant authorities. The revision of the legal framework and the drafting of the media strategy are yet to be streamlined in order to ensure mutual consistency and full alignment with the EU *acquis* and relevant European standards. Sustained efforts are needed to counter disinformation and limit the effects of online harassment and hate speech without disproportionately limiting freedom of expression. The public broadcaster RTCG continued to produce politically balanced and diverse content. Deep political polarisation of the media scene persisted, while growing competition from big regional media placed additional strain on the local media market. Further sustained efforts are needed to establish effective self-regulatory mechanisms.

Last year's recommendations were only partly addressed, and they remain valid. In addressing the shortcomings, Montenegro should in particular:

- strengthen the effective protection of journalists and other media workers, through the full and effective judicial follow-up of threats and attacks, including old cases;
- refrain from any action, either political, legislative or administrative, that threatens to undermine the editorial, institutional or financial independence of the public broadcaster and continue restoring its editorial independence and professional standards;
- streamline the revision of media legislation and the drafting of the media strategy, through inclusive dialogue with media and civil society, and in line with the EU *acquis* and relevant European standards.

#### Intimidation of journalists

The institutional and law enforcement response to address new cases of violence against journalists and media workers has improved. However, there has been no breakthrough in critical old cases, including the 2004 murder of the editor-in-chief of the daily newspaper Dan. In December 2021, the police arrested two individuals, one of whom a police officer, on suspicion of being involved in the 2018 shooting of an investigative journalist. However, effective judicial follow-up of the case is yet to be ensured. In 2021, the authorities registered 24 cases of violence against journalists, predominantly involving threats, intimidation or harassment, but also including instances of physical violence. Between 15 June 2021 and 6 June 2022, the prosecution service dealt with 14 cases of violence against journalists and

attacks on their property, filing indictments in six of those cases and dismissing criminal charges in two. In one case, misdemeanour proceedings were launched, while a preliminary investigation was ongoing in the remaining five. In 2021, the police registered 23 cases of violence against journalists or media workers.

On 25 May, the Supreme Court upheld the appeal quashing the High Court's and Appellate Court's verdicts on the case of investigative journalist Jovo Martinovic, who was sentenced to a year in prison for involvement in drug smuggling while he was conducting journalistic investigations.

The government adopted two reports by the new ad hoc commission for monitoring violence against the media, in October 2021 and in March 2022, and instructed its General Secretariat to present the reports to the Supreme State Prosecutor's Office. The commission found that the police and the prosecution service had taken all steps within their power to solve certain cases. In other cases, however, certain omissions and need for a more agile response from the authorities were noted. The authorities need to ensure effective follow-up of the Commission's recommendations, while providing it with all the necessary means to effectively perform its work. Specific recommendations from the previous commission concerning critical old cases of attacks on journalists remain to be fully and effectively addressed by the relevant authorities.

Instances of senior public officials and top government ranks engaging in strongly worded public criticism of the work of both public and private media outlets continued to occur. The authorities should promote and preserve an environment conducive to investigative journalism and media freedom by promptly reacting to and publicly condemning hate speech and threats, and by refraining from exercising political pressure on journalists, including through their public statements.

#### Legislative environment

In December 2021, Parliament adopted a set of amendments to the Criminal Code providing penalties that are more stringent in cases of violence against journalists. Under the amended legislation journalists are granted the status of persons who perform duties of public interest, while several criminal offences, including murder, infliction of serious bodily injuries, coercion by using force or threat and endangering of safety, will carry longer prison sentences when committed against journalists. The legal amendments also introduce longer prison sentences for unlawful obstruction and prevention of the production and distribution of media content.

The working group tasked with drafting amendments to the RTCG Law, the Media Law and the new Law on audio-visual media services has advanced in its work, including with the meaningful involvement of civic stakeholders. In March 2022, the Ministry of Public Administration, Digital Society and Media organised public consultations on the draft media strategy for 2022-2026 and the action plan for 2022-2023. So far, both legislative and policy reform processes have been managed through an inclusive approach, with active involvement of stakeholders from the public sector, civil society and the media. The adoption of the draft media laws and strategy are pending.

#### Implementation of legislation/institutions

The application of the journalistic Code of Ethics and Professional Standards remains uneven across the media community, as the media scene continues to be highly politically polarised, with weak self-regulation mechanisms. A working group comprising representatives of several self-regulatory authorities produced a set of guidelines for journalistic due diligence as set out in the 2020 Media Law, although these are not binding.

### Public service broadcaster

The public broadcaster *Radio Televizija Crne Gore* (Radio Television of Montenegro – RTCG) continued to pursue a balanced editorial policy, featuring politically diverse content. In November 2021, the government decided to submit to Parliament several draft laws that proposed to abolish fixed budgetary allocations legally guaranteed to several institutions, including RTCG. The decision was criticised by the European Broadcasting Union as seriously undermining RTCG's governing, managerial and financial independence. Eventually, the Ministry of Finance announced that the draft laws would be temporarily withdrawn pending additional consultations with relevant stakeholders. The issue of an efficient legal remedy in cases of dismissals of RTCG Council members by Parliament is yet to be addressed, either through case-law or through legislation.

### Economic factors

One of the four nationally circulated daily newspapers was shut down in December 2021, unable to cope with a dire economic situation exacerbated by the COVID-19 crisis. The growing interest of big regional media companies in the national media market creates increasingly intense competition and limits the revenues for small local media outlets. In December 2021, the Ministry of Public Administration, Digital Society and Media allocated approximately EUR 300 000 in grants for 36 print and online media projects from the Media Pluralism and Diversity Fund established under the 2020 Media Law. In June 2022, the Council of the Agency for Electronic Media awarded, from the same Fund, approximately EUR 220 000 in grants to 11 broadcasters. In addition, the authorities continued to provide different forms of financial support to media outlets against the fallout of the COVID-19 crisis, including through exemption of broadcasting fees for 2022.

### Internet

In April 2022, the Council of the Agency for Electronic Media (AEM) instructed all providers of audio-visual media services in Montenegro to suspend the broadcasting of Russian state-controlled media RT and Sputnik, including through transmission or distribution by any means such as cable, satellite, IP-TV, internet service providers, internet video-sharing platforms or applications, whether new or pre-installed. Disinformation, online harassment and hate speech remain a frequent occurrence, including on social media pages and comments sections of online media outlets. The legal requirement for the removal of illegal third-party comments from online media platforms should be formulated in a manner that does not place an undue administrative burden on online media, particularly on smaller services.

Along with more than 60 international partners, Montenegro signed the Declaration for the Future of Internet of 28 April 2022<sup>4</sup>, which sets out the vision and principles of a trusted Internet.

### Freedom of artistic expression

Freedom of artistic creation and publication of works of art is guaranteed by the Constitution. As part of the public health measures to curb the spread of COVID-19, the health authorities imposed temporary bans on artistic performances in public spaces, in particular on live performances of musicians. The bans were lifted as the COVID-19 situation improved.

### Professional organisations and working conditions

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<sup>4</sup> Declaration for the Future of Internet | Shaping Europe's digital future (europa.eu)

Journalists continued to report overall poor working conditions, including low salaries, unpaid overtime work, security risks and different forms of pressure and undue influence on their work, both from media owners and third parties. The trend of media outlets and journalists launching defamation lawsuits against their competitors has continued. The socio-economic situation and working conditions are particularly difficult in local public broadcasters, which are directly exposed to editorial influence and financial control by local authorities.

*(See also Chapter 10 – Digital transition and media)*

**Freedom of assembly and association** continued to be broadly respected during the reporting period and most unannounced gatherings were held peacefully. The Law on freedom of assembly is still unevenly applied, including arrests and fines, depending on the nature of the public gathering. Amendments to the Law on public assemblies and public events to regulate more precisely spontaneous assemblies are still outstanding. In 2021, 287 public assemblies took place (2020: 247). The police issued eight decisions on temporarily banning public assemblies, while there were no disruptions or restrictions of reported public assemblies. The mass gatherings during the enthronement of the Metropolitan in the Cetinje Monastery on 5 September 2021 had not been announced to the police, thus preventing them from taking appropriate security measures. Violent clashes between police and some protesters took place amidst the otherwise peaceful religious ceremony. Formal investigations into the use of excessive force and torture by the police are ongoing. Following the proposal to form a minority government in January 2022, protests took place all over the country.

Regarding **property rights**, some progress was made in addressing shortcomings in the expropriation of land in the coastal zone, as identified by the ECtHR. The legal opinions of the Supreme and Constitutional Courts in the application of property rights have been harmonised to a certain extent. However, the process of restitution of properties expropriated in the past remains slow despite repeated opinions of the Ombudsperson, and Montenegro still needs to ensure fair restitution proceedings within a reasonable time. Women continue to face difficulties when claiming inheritance and property rights in divorce proceedings.

On **non-discrimination**, work to ensure full compliance with the EU acquis and European standards on anti-discrimination is ongoing. Following recommendations of EU-funded experts, in November 2021 the Ministry of Justice, Human and Minority Rights decided to draft a completely new law on prohibition of discrimination that would meet European anti-discrimination standards, comply with the 2017 recommendations of the European Commission against Racism and Intolerance (ECRI), and provide quality protection against discrimination to all citizens. Work is ongoing to draft a new law.

The reporting period was marked by high societal polarisation and division. The most vulnerable groups in society (including Roma and Egyptians, persons with disabilities, LGBTIQ persons) were increasingly subjected to discrimination, hate speech and hate crimes. The increase in hate speech persists, particularly against women in politics. There is an urgent need to eradicate all forms of discrimination by using legal protection mechanisms and to address deeply rooted societal behaviours that degrade and discriminate against women, resulting in instances of gender-based violence. Accepting and respecting pluralism in society needs to be addressed from an early age through engagement with young people and adults to promote behavioural changes and tolerance of diversity. The Ombudsperson's capacity to serve as inequality body continued to improve, although the overall institutional framework needs to be improved. In 2021, the Ombudsperson's Office received 173 complaints of discrimination (2020: 159 cases). The majority concerned labour and employment, social services, domestic and gender-based violence and proceedings before



public authorities. Ten complaints were received regarding hate/discrimination on the internet. The 2017 priority recommendation of the ECRI to put in place a system for collection of disaggregated data on hate crime is yet to be implemented as it depends on the reform of the Criminal Code (amendments on bias motives), which is expected later in 2022.

On **gender equality**, the shortcomings identified by the evaluation of the 2017-2021 action plan remain largely unaddressed.

In July 2021, the government adopted the 2021-2025 national strategy for gender equality, its action plan for 2021-2022 and the final report on the implementation of the 2017-2021 action plan for achieving gender equality. The strategy introduced some important novelties that could contribute towards improving women's rights and gender equality in Montenegro. These include suggestions from specialised NGOs for better gender mainstreaming of public policies, an increase in the election quota for the less represented gender, and the establishment of an alimony fund. However, Montenegro must address the issue of gender-based violence and domestic violence in the strategy. The legislative framework on gender equality still has a limited impact due to insufficient political will to prioritise this issue in the overall governmental accountability mechanisms.

Difficulties remain, notably in relation to female labour market participation and vocational training. Women also remain under-represented in political and economic decision-making. Women make up only a quarter of the total management in the public administration, often due to explicit or implicit bias in hiring, training and promotion practices. There has been an increase in smear campaigns, hate speech and use of gender-based violence against women in politics and public life. Women have been disproportionately affected by the COVID-19 pandemic.

Gender-based violence, in particular domestic violence, remains a serious and persistent criminal, societal and public health issue. Although some training and awareness-raising campaigns were organised during the reporting period, issues such as deeply rooted patriarchal norms and stereotypes, limited awareness on the part of both individuals and institutions, and to the lack of efficient systemic response and commitment to protection of victims, all contribute to further exacerbating the consequences of gender-based violence. There were no developments in the legal framework. Specialised NGOs registered an increase of around 20% in cases in 2021 compared to the previous year, and even of 80% compared to 2019, the pre-pandemic year, which proves that the pandemic and lockdowns resulted in an increase in domestic violence. It is estimated that most cases of gender-based violence remain unreported. According to judicial data, in 2021, there were 2 176 misdemeanour cases of domestic violence and 282 criminal offences, showing that state prosecutors are much more likely to opt for a milder qualification of the offence, i.e. mostly misdemeanour proceedings are conducted, while criminal cases account for only 11.4% of the total number of cases. Reasons for this include victims' reluctance to testify, and a backlog of cases. Further training and specialisation of judges is needed to address this.

Montenegro has yet to adopt a new strategy on protection from violence. Cases of violence against women through digital means are also increasing, including cyber stalking and distribution of intimate photo or video materials, often followed by threats and psychological violence. The Ministry of Finance and Social Welfare set aside EUR 200 000 for licensed service providers for victims of violence in the budget proposal for 2022 and participated in the CSO-led campaign '16 days of activism', which marked the fight against gender-based violence. EUR 140 000 have been allocated for financing NGO projects related to violence against women and domestic violence. The State does not provide enough specialised

services for women and children who have survived violence. Crisis centres and clear protocols for victims of sexual violence have not been established.

On the **rights of the child**, the legislative and institutional framework is largely aligned with international and regional human rights instruments, including all areas covered by the UN Convention on the Rights of the Child and its protocols. Montenegro continued implementing its strategy for the prevention and protection of children against violence and its action plan (2017-2021). However, challenges remain over its effective implementation, primarily due to a poor accountability framework, inadequate and insufficient administrative capacities, lack of systematic monitoring and quality assurance of existing laws and strategies, and insufficient funding to ensure that children's rights are enforced.

The Ombudsperson's Office received 165 cases relating to the rights of the child. The COVID-19 pandemic continued to have a negative impact on children. Besides domestic and sexual violence, peer violence at school – bullying – is an alarming growing trend. More efforts are needed to ensure child-friendly justice, in particular for vulnerable groups such as children who live in poverty, children with disabilities, children belonging to minorities and children living without parental care. The juvenile prison department established in October 2020 continues to provide dedicated activities, including sports, cultural and educational activities, psychological and creative workshops, aiming at better reintegration of juvenile convicts. Montenegro does not have a juvenile justice law or strategy. The practice of arranged child marriages among the Roma and Egyptian communities remains a matter of concern. No progress has been made regarding the follow-up on the UN monitoring bodies' recommendations to raise the minimum age for entering marriage. The Criminal Code is yet to be revised to fully comply with the Convention on the Rights of the Child and its Optional Protocol (sale of children, child prostitution, child pornography) and legislation needs to address online child sexual exploitation.

There is a lack of systematically collected disaggregated data on child sexual abuse and sexual exploitation. The National Council on the Rights of the Child met only twice (in June and November 2021). The Council's Secretariat capacities need to be strengthened, so that the Council can effectively exercise its function as a coordinating mechanism at inter-ministerial level. During 2021, the National SOS Children's Telephone Line registered 942 calls (60% girls and 40% boys). More human and financial resources are needed for its proper functioning, better outreach to children and provision of quality support.

In 2021, the number of children living in institutional care decreased by 11% in comparison with 2020; by the end of February 2022 the number was 115. Montenegro needs to accelerate the process of developing family and community-based services and deinstitutionalisation for children without parental care. Work on the strategy on deinstitutionalisation is ongoing. Essential services, such as family outreach work, parenting programmes, different forms of foster care, home visitation, counselling and rehabilitation of child victims are not provided systematically.

Regarding the **rights of persons with disabilities**, following the termination of the mandate of the Council for the Care of Persons with Disabilities, the former government established a new Council for the Rights of Persons with Disabilities in December 2021, responsible for interinstitutional coordination. The decision on its final composition is outstanding due to the change of government. The 2022-2027 strategy for protection from discrimination of persons with disabilities and promotion of equality and the action plans for 2022 and 2023 were adopted in July 2022. Although a specific strategy for the protection of children with disabilities is yet to be adopted, several strategies in other sectors (e.g. education, social and child protection) include specific measures and activities relevant to children with disabilities.

The national legislation is still not fully aligned with the UN Convention on the Rights of Persons with Disabilities, including with respect to a human rights-based definition of disability. Montenegro has not yet adopted an action plan to adopt and implement the recommendations of the UN Committee on the Rights of Persons with Disabilities. Likewise, Montenegro has yet to adopt the law on professional rehabilitation and employment of persons with disabilities, which would also regulate the location and management of the corresponding fund. Limited progress was made in implementing the 2019-2020 action plan for the adaptation of public buildings for persons with reduced mobility and disabilities. Overall, persons with disabilities cannot fully exercise their rights in Montenegro and continue to face multiple forms of discrimination. Gaps must be addressed with respect to mainstreaming their rights across sectors and policies, and there is a lack of a harmonised concept of disability in the legislation. The reform of the National Disability Determination System, including the adoption of a law establishing a single body of expertise, is still not in place. It is important that NGOs and social partners are systematically involved in the process of drafting/amending relevant legislation and strategies and formulating projects.

The protection of the **rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons** continues to increase. The ninth Podgorica Pride took place in October 2021, with the participation of high-ranking government officials (Deputy Prime Minister, several ministers), and without any incident reported. In December 2021, Parliament adopted amendments to the Law on compulsory health insurance, the Law amending the Law on social and child protection, and the amending the Law on personal income tax. A reference recognising same-sex partnerships was added to harmonise them with the Law on Same-sex Partnerships. The report on the implementation of the 2021 action plan accompanying the 2019-2023 strategy, which was expected for Q1 2022, is delayed due to the formation of the new government. More efforts need to be invested in the national focal point network, tasked with promoting LGBTIQ rights at the local level and monitoring implementation of the national strategy. Most activities of the action plan are implemented by NGOs, some in cooperation with the Ministry of Justice and Human and Minority Rights. In 2021 the Ministry of Justice, Human and Minority Rights allocated almost 35% more funds to LGBTIQ NGOs than in 2020. Limited progress is noted regarding the application of the 2020 law on life partnership of same sex partners (same-sex partnership law). So far, 15 life partnerships have been concluded. A working group to prepare the draft law on legal gender recognition has been established. Hate speech and homophobic incidents against LGTBIQ persons, including by members of Parliament, remain a matter of grave concern. In 2021, 55 reports were filed with the police against 57 people regarding discrimination against LGBTIQ persons. Demand for social services, psychological support and legal aid continued to increase due to the COVID-19 pandemic, as did the economic and social vulnerability of LGBTIQ persons.

The amendments to the Criminal Procedure Code and the Criminal Code are ongoing. The objective of this revision is to fully align criminal legislation with the EU *acquis* and **procedural rights** standards for suspects and accused persons, and victims of crime. The amendments are intended to tackle the right to information and participation at all stages of the proceedings, unjustified prolonged pre-trial detentions, and insufficient protection of victims, in particular women and children, as well as the overall length of proceedings. Montenegro has yet to adopt the law on the treatment of juveniles in criminal proceedings. The revision of the Law on free legal aid is under preparation. Comprehensive data on free legal aid is lacking as it depends on the development of the new judicial information system. The budget implemented for legal aid in 2021 amounted to EUR 121 500 (EUR 146 483 in 2020). A systematic approach to dealing with and providing information for victims is still

lacking. Montenegro still needs to abolish the suspension the law on victims' compensation and secure sufficient funding for victims' support.

The legal framework and institutional mechanisms to promote and safeguard the **rights of persons belonging to minorities** need to be substantially improved, fully implemented, and applied. In July 2021, the government adopted the 2021-2022 action plan for the implementation of the 2019-2023 minority policy strategy, including activities of minority councils, local government authorities, and NGOs. Data on its implementation is not available. The equal treatment of minorities in Parliament was not ensured. Montenegro submitted its state reports under both the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. The monitoring and evaluation of projects financed by the Fund for the Protection and Realisation of Minority Rights remain insufficiently transparent. In 2021, the Ombudsperson handled one case of discrimination against minorities referring to proceedings before judicial authorities (2019: two cases). The worrying trend of hate speech attacks and discrimination against minorities at local level continued, with limited response from the relevant authorities. In addition to several private media in minority languages, the public broadcaster RTCG broadcasts a number of TV and radio shows in the Albanian and Roma languages. The right of minorities to use and to be educated in one's own language continue to be respected. National minorities are represented in public, in decision-making bodies and in the civil service.

The 2021-2025 strategy for the social inclusion of **Roma and Egyptians** and its 2021 action plan were adopted in September 2021. The 2022-2023 action plan, along with the report on the implementation of the 2021 action plan, were adopted in August 2022.

For the first time, and in line with 2020-2030<sup>5</sup> EU Roma Strategic framework, anti-gypsyism is addressed as a specific form of discrimination. Roma and Egyptians are the most vulnerable and discriminated persons belonging to minorities; their socio-economic situation worsened during the COVID-19 pandemic. In January 2022, the Roma Council submitted an initiative to Parliament to reduce the threshold for political representation of Roma in the Law on the election of councillors and deputies. The Parliamentary Committee for a Comprehensive Reform of Electoral Legislation is responsible for this issue. There were no developments in this regard.

A National Roma Contact Point (NRCP) has not been nominated since August 2020. Instead, there is a Head of the Department for Inclusion of Roma and Egyptians, under the Directorate for Human Rights in the Ministry of Human and Minority Rights operating with limited funding, resources, institutional authority or ability of inter-ministerial coordination.

Compared with the previous years, there is a trend towards increasing the budget allocated to actions supporting Roma inclusion, but appropriate planning and monitoring are lacking, as is financial control. In September 2021, the Ministry of Justice and Human and Minority Rights allocated EUR 320 000 to civil society organisations for 21 projects on the social inclusion and promotion and protection of human rights of Roma and Egyptians in Montenegro.

During the 2021/2022 school year, 1 856 Roma pupils attended primary schools, with 207 Roma in secondary education and 12 university students. There are also 192 Roma children in pre-school education. While there is an increase in the coverage of Roma children in primary and secondary education, a drop in pre-school and university education is apparent.

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<sup>5</sup> COM(2020) 620 final

[https://ec.europa.eu/info/sites/default/files/eu\\_roma\\_strategic\\_framework\\_for\\_equality\\_inclusion\\_and\\_participation\\_for\\_2020\\_-\\_2030\\_0.pdf](https://ec.europa.eu/info/sites/default/files/eu_roma_strategic_framework_for_equality_inclusion_and_participation_for_2020_-_2030_0.pdf)

The significant increase in the number of secondary school pupils compared to previous years also results from mentorship support provided by an EU-funded project. According to the 2018 UNICEF Multiple Indicator Cluster Survey<sup>6</sup>, only 77% of Roma and Egyptian children of primary school age attend school and only 7% of children of secondary school age (15–18) in Roma settlements attend secondary school or higher, in contrast to the general population, where 88% of children attend secondary school. There were 22 Roma education mediators employed in 2021/2022 in seven municipalities. Overall, the quality of education of Roma children remains of great concern.

The mapping of Roma settlements in Montenegro was completed in 2021 with the assistance of the Roma Cooperation Council. Altogether, 14 municipalities where mainly Roma live were mapped, including 32 Roma settlements. Challenges remain in coastal municipalities, where private land ownership may lead to evictions of Roma families who reside there.

Even though around 90% of Roma have health cards, access to health deteriorated due to the COVID-19 pandemic. Currently, the Ministry of Health employs three Roma and Egyptian health mediators on a permanent basis. There is great need to increase their number, especially to facilitate access to health to displaced and internally displaced Roma.

There were 1 335 Roma and Egyptians registered with the National Employment Bureau on 21 April 2022 (739 female), which represents 2.6% of the total unemployed people registered. Around 96% of the Roma registered have the lowest level of education and less than 1% are educated to secondary level, which limits the range of employment opportunities. Public works and seasonal works programmes are continuously organised, with limited long-term effect.

Roma and Egyptian mediators in health, employment and social protection are still hired through projects with limited duration and need to be fully integrated in the system and given permanent employment contracts.

About one third (32.5%) of girls aged 15–19 and about one in six boys (15.8%) are currently married or in union<sup>7</sup>. There is still no evidence that child begging and child marriages are systematically addressed.

In the previous period, Ombudsman received a few complaints relating to discrimination and hate speech against the Roma community. Complaints referred to hate speech, housing issues, and the employment status of Roma education mediators.

The Romani language is not taught in schools.

Regarding **displaced and internally displaced people**, from 7 November 2009 to 6 June 2022, there were 15258 requests for permanent or temporary residence. Of these, 15142 requests have been resolved and 116 cases still pending. For 12 402 people, permanent or temporary residence up to 3 years has been granted, 297 requests have been refused and 2443 cases suspended due to incomplete or duplicated requests.

On **statelessness**, in the period between the implementation/entry into force in 2018 of the new Law on foreigners and August 2021, nine people were recognised as stateless, while for 11 the procedure for determining statelessness is ongoing, one request was refused, and seven requests were suspended. To address the gaps in the procedure implementation (identified in 2018), the Ministry of Interior, together with UNHCR, started drafting amendments to the

<sup>6</sup> Multiple Indicator Cluster Survey 2018, Montenegro and Montenegro Roma Settlements, Survey Findings Report, December 2019, available at <https://www.unicef.org/montenegro/sites/unicef.org.montenegro/files/2020-07/UNICEF%20-%20MICS%20izvještaj%20za%202018%20-%20ENG.pdf>

<sup>7</sup> 2018 Multiple Indicator Cluster Survey.

Law on foreigners, in order to strengthen the statelessness determination procedure, primarily with regard to procedural guarantees and access to rights during the procedure and upon recognition of stateless status. The legal amendments should enable Montenegro to fully incorporate international standards on statelessness into its national legislation and grant stateless persons the rights to which they are entitled in line with the 1954 Convention. According to UNHCR, there are currently around 500 people at risk of statelessness in Montenegro.

Through close cooperation between the Ministry of Interior and UNHCR, the new birth registration practice for this specific group of people yielded results: birth registration of all stateless children in Montenegro known to UNHCR has been completed.

On **citizenship rights**, despite the previously announced decision to end the economic citizenship programme in 2021, the former government prolonged the programme for an additional 12 months to December 2022. The current government publicly committed to phasing-out the scheme by December 2022; however, in June 2022, it decided to lower the requirements to apply for it. This scheme poses risks such as money laundering and corruption and should be terminated definitively. In its fourth and fifth reports under the visa suspension mechanism<sup>8</sup>, the European Commission recommended that Montenegro effectively phase-out the investor citizenship scheme completely as soon as possible. Montenegro has not yet implemented this request.

### 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. Member States also cooperate with Montenegro in the fight against organised crime and terrorism, and on judicial, police and custom matters, all with the support of the EU justice and home affairs agencies.*

Montenegro is **moderately prepared** in the area of justice, freedom and security. The legislative and institutional frameworks are largely in place. **Some progress** was achieved in addressing last year's recommendations, as Montenegro started revising its legal approach to financial investigations and took a number of steps to improve the efficiency of criminal investigations. However, last year's recommendations remain overall largely valid.

On migration, Montenegro signed a cooperation roadmap with the European Asylum Support Office (now the EU Agency for Asylum) and joined the European Migration Network (EMN), an EU network of migration and asylum experts, as an observer member. The processing time for asylum applications was reduced. Montenegro's visa policy is yet to be fully aligned with the one of the EU.

Montenegro is the Western Balkan partner hosting the highest number of **Ukrainian nationals having fled the war**, exceeding 1% of its population. It adopted a decision granting one-year **temporary protection** to people fleeing Ukraine, under which more than 5 552 Ukrainians, mostly women and children, have registered so far.

In the coming year, Montenegro should in particular:

- limit the use of plea bargains to exceptional cases, in order to enhance the transparency and credibility of the judicial response to organised crime through a more deterrent and consistent sanctioning policy;

<sup>8</sup> COM(2021) 602 final.

- review the legal and operational approach towards financial investigations, asset recovery, the fight against money laundering and tobacco smuggling; align it with EU and international standards, and establish a convincing track record in these areas;
- further strengthen the capacities in border management by addressing the critical gaps in human resources and equipment; take the necessary steps to establish an Advance Passenger Information System (API) and a biometric migrant registration system that follows the Eurodac model; take concrete steps to fully align with the EU's list of visa required third countries and increase the accommodation capacity for migrants.

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

Montenegro has **some level of preparation/is moderately prepared** in the fight against organised crime. **Some progress** was made in addressing last year's recommendations, in particular as regards the efficiency of criminal investigations. The full use of special investigative measures was restored. Legislative changes introduced safeguards against political influence over the appointment or dismissal of the Head of the police. A register of beneficial ownership was created. The administrative framework on firearms was improved and a new strategy on the prevention of terrorism, money laundering and the financing of terrorism was adopted.

Some key figures from organised crime groups were arrested and another record of drug seizures was reached. The first joint investigation team with a third country was launched. The number of final convictions in organised crime cases is on the rise.

However, the track record of court decisions on tobacco smuggling and money laundering, the use of financial investigations and the capacity to confiscate the proceeds of crime need to be strengthened. Montenegro has yet to address some systemic deficiencies affecting its criminal justice system across the board, including the way organised crime cases are handled in courts. This will require a more deterrent sentencing policy and a revision of the use of plea bargains in organised and serious crime cases.

Last year's recommendations remain largely valid. In the coming year, Montenegro should in particular:

- continue to increase the efficiency of criminal investigations by establishing an interoperable system with a single search feature and by increasing the number of investigators and experts in key areas such as financial investigations, cyber-crime, forensics and special investigative measures;
- address the lengthy duration of trials and frequent adjournments in organised crime cases; ensure stronger mutual understanding between courts and the prosecution on key legal concepts such as money laundering and the quality of evidence;
- enhance the strategic monitoring of the criminal justice system by establishing a centralised database of organised crime and high-level corruption, collected from all relevant authorities, for analysis and policy-making purposes.

#### **Institutional set-up and legal alignment**

In 2021, the number of police officers rose to 4 586 (from 4 139 in 2020). The ratio of police officers remains high, at 730/100 000 inhabitants, compared with an EU average of 333/100 000 (Eurostat, 2018-2020). However, unlike most EU Member States, Montenegro includes border guards in the police (1 307 staff members), as well as non-operational staff such as advisers and officers without police rank.

Montenegro continued to align its legal framework on the fight against organised crime with the EU *acquis*. Amendments to the Law on internal affairs, adopted in November 2021, addressed a recommendation from the European Commission 2021 annual report by improving safeguards against political influence over the appointment and dismissal of the Head of the police. Addressing another recommendation from the Commission's annual report, amendments to the Criminal Procedure Code were adopted in December 2021, restoring the use of some special investigative measures in compliance with constitutional principles, a key step forward for the efficiency of investigations in drug-related cases. As from January 2022, the prosecution service could again use undercover activities, or "controlled delivery", whereby a consignment of drugs is detected and allowed to go forward in order to secure evidence against the perpetrators.

A new serious and organised crime threat assessment was adopted in March 2022, identifying 10 main criminal groups and 12 threats to the national security of Montenegro.

The strategic framework was consolidated by the adoption in December 2021 of a strategy for the prevention and suppression of terrorism, money laundering and financing of terrorism for 2022-2025 and of a cyber-security strategy for 2022-2026. Montenegro is Party to the Council of Europe Budapest Convention on cyber-crime and was among the 22 countries that signed its Second Additional Protocol on enhanced co-operation and disclosure of electronic evidence on 12 May 2022.

Montenegro started reviewing its legal framework on asset confiscation to address the legal impediments to the recovery of the proceeds of crime, by drafting amendments to the Law on the confiscation of material benefit derived from criminal activities.

On anti-money laundering, Montenegro has yet to align its Law on the prevention of money laundering and terrorism financing with the fourth and fifth EU Anti-Money Laundering Directives and to solve some implementation issues relating to beneficial ownership and supervision. The draft law on games of chance, intended to achieve alignment with international best practices, has yet to be adopted. The current law leaves substantial loopholes and increases the risk of money laundering and terrorist financing in this high-risk area, as legal safeguards against the influence of organised crime in the ownership structure of games of chance are insufficient.

A register of beneficial ownership was created in February 2022, providing the authorities with information on the individuals ultimately owning or controlling the shares of legal entities registered in Montenegro. The Central Bank of Montenegro has a central register of resident accounts, but does not have a register of non-resident accounts, a crucial tool for investigations involving non-residents. The problem of an incomplete land cadastre, hampering the efficiency of financial investigations and asset confiscations, has not been addressed. Five new members of the Prosecutorial Council were appointed by Parliament in December 2021. In February 2022, the newly formed Prosecutorial Council dismissed the Special Chief Prosecutor, based on a disputed interpretation of legal conditions for old-age retirement of judges and prosecutors, following the adoption of the Law on pensions in 2020. His successor was appointed in March 2022. The appointment, at his request, of three new special prosecutors in June 2022 brought the number of special prosecutors to 16 (from 13). Human resources in the Special Prosecutor's Office (SPO) remain nevertheless insufficient to cope with the workload, with up to 100 cases per special prosecutor. The precarious office conditions in which the SPO is housed remain below the minimum safety and work standards needed for the proper functioning of the institution. The appointment of a new Chief Special Prosecutor was quickly followed by the appointment of a new Head of the Special Police Unit (SPU), a police department focusing only on organised crime and high-level corruption



and working in close cooperation with the SPO. Further to these appointments, 22 out of the 32 police officers working in this unit were transferred to other police units, leaving these key positions vacant. Six were replaced. The total number of police officers working in the broader sector of the fight against crime stands now at 83 (compared with 82 in 2020), including 16 in the SPU. This number remains largely insufficient to cope with the existing backlog and to absorb the ever-increasing number of new complex and high-profile organised crime cases. Both SPO and SPU lack sufficient specialisation of staff, due to their limited number.

These human resources challenges are partly addressed in a rulebook establishing the internal organisation and job descriptions of the staff of the Ministry of Interior and the police, adopted in July 2022. The lack of human resources in key sectors of the police needs to be addressed as a matter of priority to ensure an appropriate response to the threats of organised crime identified in Montenegro's serious and organised crime threat assessment. In terms of equipment, Montenegro's police still needs to establish a modern case management system and software for processing financial investigations and IT forensic. A centralised database on organised crime and corruption collected from all relevant authorities is needed to process the track record and to serve reporting, monitoring and policy-making purposes.

On **firearms**, the draft law on weapons, aligning the legal framework with the EU *acquis* on the acquisition and possession of weapons, is still pending adoption by Parliament.

#### Implementation and enforcement capacity

International drug smuggling and conflicts between competing criminal groups remain typical features of Montenegro's criminal profile. Some Montenegrin crime groups are key players in international and large-scale cocaine trafficking and have the capacity to facilitate or control logistical aspects of transatlantic drug shipments, including using corrupted crew members. They are also involved in violent activities, such as contract killings. However, in 2021 there were no gang-related murders for the first time in several years, something that has been a characteristic of Montenegro's criminal scene in the last 10 years. Preventive investigations and police intelligence have succeeded in preventing several planned murders of police officers, judges and prosecutors, including of the Chief Special Prosecutor, as well as 13 murders of members of other criminal groups.

Montenegro's law enforcement agencies had key successes in the fight against criminal networks in 2021, including the arrest of leading figures in criminal groups, both in Montenegro and abroad in cooperation with foreign police services. This marks a turning point in the fight against organised crime. In these high-profile cases, cooperation with EU Member States through Europol's Secure Information Exchange Network Application (SIENA) has been instrumental in the handling of the investigations. The shared intelligence also resulted in the arrest, in April 2022, of the former Supreme Court President while she was attempting to board a flight to Serbia. The charges related to suspicions of forming a criminal organisation and exerting unlawful influence. Her son and bodyguard are also under investigation in the same case. She had been the President of the Supreme Court between 2007 and 2020, and in parallel President of the Judicial Council between 2008 and 2014. In May 2022, the President of the Commercial Court was arrested on suspicion of forming a criminal group, abuse of position and embezzlement in relation to bankruptcy procedures. Seven other individuals were arrested in the same case, including four bankruptcy administrators. In May 2022, using intelligence from EU Member States, the newly appointed Chief Special Prosecutor re-opened an investigation into three police officers suspected of involvement in drug smuggling and organised crime, including the son of the former Police Director for the fight against crime. The charges against them had been

dismissed in January 2022, under the previous management of the Special Prosecutor's Office.

In 2021, the SPO conducted 13 investigations into organised crime cases (compared with 25 in 2020), targeting 103 people. Some 13 indictments were lodged for organised crime-related offences (from 29 in 2020) against 70 people.

The number of court judgements and convictions continued to rise in 2021, reflecting the constant increase in the number of investigations in the last two years. There were 73 organised crime cases adjudicated by the Podgorica High Court in 2021 (against 426 defendants and 66 legal entities), up from 63 in 2020 and 22 in 2019. Some 10 cases against 17 defendants ended in a conviction, all of them based on plea bargains.

An external assessment of Montenegro's sentencing policy, ordered by the Supreme Court, concluded that courts are not making full use of the sentencing ranges and tend to impose sentences in the bottom third or lower half of the sentencing ranges. Plea bargains continued to be widely used in organised crime cases and resulted in sentences, fines and asset confiscations that were disproportionately low given the gravity of the crime. Sentences in the context of plea bargains ranged from 2 and a half months to 3 years and 8 months of imprisonment and fines from EUR 1 500 to EUR 50 000. Plea bargains should be used with care and should be regulated by implementing guidelines to enhance the transparency and credibility of the judicial response to organised crime and to provide a more deterrent and consistent sanctioning policy. The special department of the High Court dealing with organised crime and high-level corruption cases has six specialised judges, handling some 65 pending cases, against more than 500 defendants. The courts are not able to handle cases efficiently, owing to the insufficient human resources, critical housing conditions of the High Court and the numerous loopholes in the procedural rules. These shortcomings, which result in frequent adjournments, long trials (up to 5 years) and the allocation of cases to non-specialised judges need to be addressed as a matter of priority.

As regards **the cooperation between law enforcement agencies at national level**, some of the institutions concerned are now connected at a technical level, which paves the way for automatic and secured access to each other's data. The special prosecutors, however, still use paper requests to access the required data. Training and capacity building are still needed to make the system fully operational. The Asset Recovery Office (ARO), established in the police within the unit in charge of international police cooperation, still lacks access to important databases such as that of the Customs Administration. **International police cooperation** continued to be instrumental in the fight against Montenegrin criminal groups in 2021, as illustrated by the arrest abroad of 10 members of these groups. Some eight members of organised crime groups were arrested in Montenegro based on arrest warrants from foreign Interpol offices and fugitive searches. Additional police units were connected to Europol's Secure Information Exchange Network Application (SIENA) secure communication channel. The number of communications exchanged with foreign police services via the Interpol global police communication system (I-24/7) and Europol (SIENA) amounted to 34 014 and 1 334 in 2021 respectively (down from 48 634 and 3 998 in 2020). Despite fruitful international police cooperation overall, Montenegro needs to preserve and consolidate the trust of foreign police services by ensuring strict control of the information flow within the law enforcement agencies and the prosecution service.

Montenegro continued to cooperate with EU police services through the European Network of Fugitive Active Search Teams (ENFAST), in which it has observer status. The country also stepped up its participation in EMPACT (European Multidisciplinary Platform against Criminal Threats). In 2022, Montenegro committed to participating in 63 operational actions

in 13 of the 15 EMPACT operational action plans, including as co-leader in four operational actions. In 2021, Montenegro participated in 21 EMPACT operational actions and was co-leader in two of them. Montenegro also appointed a National EMPACT Coordinator.

Montenegro continued to participate actively in Joint Action Days (JADs). Specifically, it participated in JAD South East Europe 2021 (promoting closer cooperation in the fight against firearms trafficking, the smuggling of migrants and drugs trafficking), JAD Mobile 4 (targeting various methods of motor vehicle crime, including smuggling of stolen vehicles via the external borders, parts of vehicles, as well as associated document fraud) and JAD Danube 6 (focused on combating the smuggling of migrants, fighting trafficking in human beings and document fraud).

Montenegro continued to actively promote police cooperation at regional level during its presidency of the Southeast Europe Police Chiefs Association (SEPICA) in 2021. A large number of meetings, workshops and assemblies were organised, gathering over 250 participants from the SEPICA Member States.

The working arrangement between Montenegro and the European Union Agency for Law Enforcement Training (CEPOL) was renewed in October 2021, providing Montenegrin law enforcement agencies with access to a number of CEPOL's services and training activities. The exposure of staff from the criminal department of the police to CEPOL activities should be strengthened. Montenegro continues to participate in the CEPOL-led Partnership against Crime and Terrorism project in the Western Balkans (WB PaCT), which runs until October 2023.

The SPO conducted 26 **financial investigations** into 156 people and 11 legal entities in 2021, a stable number compared with the 25 financial investigations launched in 2020. In most cases, financial investigations are launched after the criminal investigation, with the aim of proceeding to extended confiscation. While the use of the extended confiscation procedure is a good practice, financial investigations should be launched in parallel with criminal investigations into organised or serious crime, to trace the financial flows behind the criminal activities. The capacity to detect and analyse illicit financial flows in crypto-currencies needs to be strengthened.

The strengthened capacity of the **Asset Recovery Office (ARO)**, established in the unit of the police in charge of international police cooperation, led to an increase in the number of assets detected and traced. In 2021, the ARO received 65 requests from foreign partners, to identify assets acquired through criminal activity, involving checks for 277 individuals and 31 legal entities. Seven requests sent by the ARO to foreign partners were processed, involving checks for 114 individuals and two legal entities.

Despite this positive trend, there was no court order on final asset confiscation pronounced in 2021 (compared with 15 in 2020). Two decisions on temporary seizures were issued, including real estate. The confiscation of assets of equivalent value, in cases where the proceeds of the crime itself cannot be found, still needs to be inserted into the legal framework. Montenegro needs to substantially upgrade its capacity to trace, detect and confiscate the proceeds of crime, in order to durably hit the financial power of criminal networks. The capacity to manage seized assets and avoid the loss of their commercial value should also be strengthened.

In 2021, the initial track record on **combatting trafficking in human beings** was further consolidated. The prosecution service launched four new investigations and four indictments were filed against six people. Two final convictions were issued, while six cases against nine people are still ongoing. These cases are related to several forms of trafficking, including

forced marriages of children and forced begging in the Roma community. People in the Roma community, in particular women and children, remain at high risk of trafficking in human beings. In 2021 and the beginning of 2022, the Montenegrin authorities paid increased attention to the problem of children working and living on the street. The labour inspection services conducted numerous inspections of work facilities and checks on foreign workers, to detect cases of labour exploitation. April 2022 saw the launch of a new investigation into trafficking in human beings for the purpose of sexual exploitation of young women from a third country.

Montenegro's capacity to address trafficking in human beings in a coordinated and multidisciplinary approach continued to improve. Important training activities were conducted for various professional categories. State institutions closely cooperate with and provide financial support to civil society organisations on victim protection and awareness raising, including the promotion of the SOS hotline. CSOs were also involved in the work of the coordination body monitoring the implementation of the anti-trafficking strategy and in the victim identification team, which is in charge of identification, referral and initial assistance to victims. In 2021, this team identified five victims, all of which were minors, four of them girls.

The authorities continued co-operation with neighbouring countries. In December 2021, a co-operation protocol on anti-trafficking was signed between the interior ministers of Montenegro and Slovenia.

Overall, Montenegro still needs to improve its capacity to prevent trafficking in human beings for all exploitative purposes, and to identify victims at an early stage, especially in high-risk sectors and with targeted action for particularly vulnerable groups, to reinforce the law enforcement response, in particular in detecting large-scale networks, and to enhance the support and assistance services for victims of trafficking, in particular for those belonging to vulnerable communities. A more robust criminal justice response to trafficking in human beings needs to be provided, with shorter legal proceedings, more deterrent sentences and systematic confiscation of the proceeds of crime. Montenegro still needs to improve support to victims in trafficking-related trials. In the absence of specialised lawyers and proper legal advice, many victims do not request the free legal aid they are entitled to and do not access compensation. In the context of the ongoing Russian war of aggression on Ukraine and the arrival of Ukrainian refugees in Montenegro, additional efforts by the Montenegrin authorities are needed to prevent the risks of trafficking in human beings.

On **firearms**, the ballistic laboratory, the firearms' focal point and the police department for international cooperation are now connected through the TRAFFIC database, enabling checks of seized firearms in international databases, an important development for increasing the efficiency of investigations. However, the ballistic laboratory still needs to be accredited. Some 556 weapons were seized in 2021, including firearms seized at borders, and 100 final convictions were pronounced for smuggling of weapons. However, most firearm-related cases continued to be processed as misdemeanours, while the number of cases concerning the illicit cross-border trade of weapons remained low. Montenegro's Criminal Code does still not allow the incrimination of trafficking of firearms under a specific provision, as required by the UN Firearms Protocol. Montenegro's data collection and reporting system on firearms have yet to be standardised, for both law enforcement authorities (on arrests and seizures) and the judiciary (on prosecutions and convictions). Reconstruction works at the Rogame storage facility for small arms, light weapons and ammunition were finalised in the third quarter of 2021 to address the safety conditions there.

Montenegro's involvement within the goals related to Western Balkans in the EU Action Plan on firearms trafficking remains insufficient and should be stepped up, in particular on amendments to the legal framework, awareness raising, outreach and education on the dangers and risks related to the misuse, illicit possession, and trafficking of firearms, as well as reduction of illicit firearms through legalisation, voluntary surrender, deactivation and destruction.

The initial track record of investigations into **money laundering** continued to improve, but the number of cases remained limited. In 2021, the Financial Intelligence Unit (FIU) received 299 suspicious transactions reports and sent 62 notifications to law enforcement agencies. Some 18 preliminary investigations and five investigations were launched. More money laundering cases reached the courts, including cases where money laundering is a stand-alone offence. However, the number of court decisions on money laundering remained small: two court verdicts were brought against three people in 2021, all based on plea bargains. In the first 6 months of 2022, nine money laundering cases were pending before the courts, of which four cases were stand-alone money laundering cases. The complex Atlas Bank case, in which 248 defendants were indicted in April 2019 for creation of a criminal organisation, money laundering and tax evasion, and which was sent back to the Special Prosecutor's Office, is still under further investigation. In 2022, the assessment of Montenegro within the fifth round of regular evaluation by MONEYVAL (the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) is under way.

Montenegro continued to progressively strengthen its capacity in the area of **cyber-crime**. The police's specialised hardware and software was upgraded, and the number of staff in the relevant unit increased to six. However, human resources are still far below the necessary level to address efficiently the threats of cyber-crime and cyber-enabled crime, in a context of ever-increasing global threats. Three preliminary investigations were launched but no investigations started. There was only one final conviction in the area of cyber-crime in 2021. At the end of August 2022, Montenegro suffered an unprecedented cyber-attack against the digital infrastructure of its public administration, which made numerous institutional websites and mailboxes inaccessible. The capacity of all relevant institutions should be strengthened in this area, including on the use of electronic evidence in court handlings, a crucial element to address modern forms of communication within organised crime groups. Montenegro should ensure effective, proportionate and dissuasive sanctions, including for legal persons, in line with the relevant EU *acquis*. Cyber-crime offences and cyber incidents often remain not reported. More awareness-raising activities about risks and threats should be conducted, to encourage the public to report cyber-crime offences.

Montenegro remains a member of the WePROTECT Global Alliance against **child sexual exploitation and abuse**. Montenegro's department for cyber-crime participated in Europol's *Say No!* campaign. A video aiming to help parents and teachers raise awareness about child sexual abuse was translated into the Montenegrin language.

To prevent **tobacco smuggling**, the government announced in July 2021 the future prohibition of the storage of tobacco products in the free zone of the Port of Bar, through the revocation, amendment or non-extension of contracts with operators in the free zone. The decision set deadlines for operators to remove their tobacco products from the free zone. At the same time, strengthened customs supervision measures were put in place at the entry and exit of the free zone. However, substantial thefts of tobacco products took place in this context, with tobacco products worth over EUR 10 million stolen from hangars in the free zone between December and March 2022. The customs authorities uncovered a smuggling

network in February 2022 and suspended seven customs officers working in the port, after a large quantity of cigarettes disappeared from one of the warehouses. In June 2022, a joint action of the police and the customs authorities led to the seizure of eight shipping containers carrying 4 000 packs of cigarettes worth nearly EUR 3.5 million. After the deadlines set for the removal of tobacco products expired, the Montenegrin authorities seized in May 2022 145 000 master cases (equivalent to almost 1.5 billion cigarettes, worth at least EUR 25 million) left on the spot by their owners. They further discovered a hidden warehouse containing cigarettes worth EUR 850 000 in June 2022. The Montenegrin authorities are exploring the possibility of putting the seized cigarettes on the market. However, the sale of tobacco products of unknown origin would be of severe concern as it would not be aligned with the EU *acquis* on tobacco control and would pose serious risks of further smuggling of the goods into the EU market. In August 2022, a smaller batch of 1,500 boxes of cigarettes originating from an earlier seizure was destroyed.

A clear increase in preliminary investigations and investigations was observed in 2021, with 39 criminal charges filed regarding 47 individuals and 3 legal entities. Five cases related to organised tobacco smuggling were pending before the courts in 2021. However, the number of final convictions remained low, with only one final sentence pronounced in 2021 for tobacco smuggling associated with organised crime, based on a plea bargain agreement. Montenegro needs more robust efforts to address the illicit trade of cigarettes including through a strengthened cooperation with EU competent agencies. This would involve strengthening the capacity of all institutions involved, enhancing the work of the whole judicial chain, dismantling the criminal networks, and increasing the track record of final convictions and confiscations of the proceeds of crime.

On **witness protection**, the protection measures applied to seven people in 2020 were extended in 2021. In cases falling under the competence of the SPO, no extra-judicial protection measures were implemented in 2021 (compared with 25 in 2020). At the request of the International Criminal Court in The Hague (ICC), measures of protection and support were implemented for nine people.

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

#### Institutional set-up and legal alignment

Montenegro's legal framework in this area is not fully aligned with the EU *acquis*. The national drug information system does not fully meet EU standards. A new Directorate for the Prevention of Drug Abuse was created in the Ministry of Health, in which the National Drug Observatory (NDO) is embedded, following its removal from the Ministry in February 2021. The Observatory, however, has not addressed recommendations from the European Commission's previous annual reports nor has it participated in the different training and capacity building exercises organised by the EMCDDA since 2021. The NDO still does not have sufficient capacity and budget autonomy to meet EU standards, and does not sufficiently fulfil its coordination function. The Institute of Public Health, the forensic laboratory and other institutions (including NGOs) dealing with drug-related issues have good technical and scientific capacity. However, security-related data collection on drugs is not compliant with the EU standards and the related security-related national data sets are not provided to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) in the requested form and timelines. The Observatory has still to become an authoritative source of information that prepares regular national reports on drugs in Montenegro and provides evidence-based information for drug-related national policies.

In October 2021, Montenegro reported to the EU early warning system on a new psychoactive substance identified by the forensic centre. The national early warning system (NEWS) is still not ready to be linked to the EU early warning system, as it has limited operational capacity, lacks defined procedures and sufficient involvement of law enforcement and health authorities. A new strategy for the prevention of drug abuse has yet to be adopted, as the previous one came to an end in 2020.

#### Implementation and enforcement capacity

Montenegro continued to be a transit country for drugs, as a part of the Balkan route. In 2021, the Special State Prosecutor's Office conducted nine investigations into drug smuggling, of which five were international investigations conducted with foreign police services. This resulted in the unprecedented amount of 4.7 tonnes of drugs seized in the country in 2021 (compared with 3.1 tonnes in 2020 and 2.4 tonnes in 2019), mainly marijuana (3.4 tonnes), but also a significant quantity of cocaine (1.2 tonnes), along with heroin and synthetic substances. In August 2021, the police seized more than one tonne of cocaine, hidden in a shipment of bananas. The movement of the drug shipment had been monitored from a vessel in the Port of Bar to the end destination in a storage facility near Podgorica. Two people were arrested and are under investigation. A large illegal marijuana plantation of 860 cannabis stalks was detected, leading to the arrest of three Albanian citizens. Another plantation of 1 300 seedlings cannabis was found, but the perpetrators were not discovered. The courts issued seven convictions for drug smuggling associated with organised crime in 2021 (down from eight in 2020), all of them based on plea bargains.

In the first quarter of 2022, 15 final convictions were handed down in drug-related cases. Ten cases of drug trafficking at international level were pending before the courts, involving 58 people.

The insufficient storage capacity for seized drugs has yet to be addressed. Montenegro has not amended the relevant legal provisions in the Criminal Procedure Code to make it possible to keep only a sample of psychoactive substances as evidence for court proceedings, and not the entire amount, as it is the case now.

#### **Fight against terrorism**

##### Institutional set-up and legal alignment

Montenegro's legal framework is largely aligned with the EU *acquis*. However, the Law on international restrictive measures (a crucial piece of legislation in the context of international and EU sanctions) has yet to be aligned with EU standards, in line with the European Commission's recommendations from early 2019. The current law does not address the application of sanctions beyond restrictive measures against terrorists, terrorist organisations and terrorist financiers. Further to the war of aggression of Russia against Ukraine, Montenegro adopted in April 2022 a separate package of restrictive measures, targeting Russian nationals, financial institutions and properties. A coordination body monitoring the introduction and implementation of international restrictive measures was established. A number of sanctions adopted by the EU remain to be implemented.

Montenegro has yet to adopt a law on the processing of data on passengers in air transport in order to prevent and detect criminal acts of terrorism and other serious crimes, and to establish a legal framework regulating terrorist content online. Occurrences of right-wing extremist content on-line are on the rise in the context of national and international events. More efforts are needed to prevent all forms of radicalisation and violent extremism, including right-wing extremism and ethno-nationalism.

Further to the change of government in April 2022, Montenegro still needs to appoint a new national coordinator for the two key strategies in this area (on counter-terrorism and on prevention of violent extremism).

Further to the signature in November 2019 of the arrangement to implement the **Joint Action Plan on counter-terrorism** for the Western Balkans with the EU, Montenegro continued to implement the planned measures. However, it has not submitted yet its fourth report on the implementation of the arrangement.

#### Implementation and enforcement capacity

The threats of terrorism and violent extremism remained relatively low in the country. There were no new departures or returns of Montenegrin citizens to and from foreign battlefields in 2021. One criminal charge for terrorism was issued against one person, in the context of the protest against the enthronement of Joanikije II, the Metropolitan of Montenegro, in Cetinje in September 2021. An initial track record of investigations into terrorism financing and suspected links to terrorism was developed. The re-trial of the 13 defendants (including 2 Russian and 8 Serbian citizens) found guilty of terrorism in the 2016 coup attempt case is still on-going after the first-instance judgment was revoked by the Appeal Court and returned to the High Court.

There are currently no people convicted of terrorism offences in Montenegrin prisons. The prison administration continued to participate in several projects strengthening its capacity to prevent violent extremism and radicalisation. Montenegro continued to participate in the EU Radicalisation Awareness Networks (RAN) to support and enhance community engagement, and in various international projects providing capacity building in the prevention of violent extremism and radicalisation. A network of local focal points for the prevention of violent extremism is formally in place throughout the country but should become more proactive in prevention activities.

Montenegro continued to cooperate closely with Interpol and Europol, contributed to the Terrorism Risk Assessment and Analysis for the Western Balkans and submitted data to Europol for the preparation of the Terrorism Situation and Trend Report (TE-SAT). The use of Europol tools and products for the fight against terrorism continued to increase. In 2021, some 203 messages were exchanged with foreign counter-terrorism units through Europol's SIENA communication link. Montenegro actively participated in the Western Balkan Regional Counterterrorism Initiative on counter-terrorism investigations.

Montenegro's threat assessment still needs to be conducted in a more analytical and inclusive way, to create a common understanding of the main threats and risks among the concerned stakeholders, with special attention to hybrid and cyber threats.

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

Montenegro's legal framework on judicial cooperation in criminal matters is largely aligned with the EU *acquis*. Montenegro continued to align its legislation with the EU *acquis* on international judicial cooperation but has yet to become a party to the 2007 Protocol to the Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance, and to the 2000 Hague Convention on the International Protection of Adults. Montenegro has also not ratified the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters. An internet application allowing the exchange of cases of international legal assistance between the prosecution service and the Ministry of Justice was established.



There was a slight increase in the volume of judicial cooperation compared with 2020, though it remained lower than before COVID-19 levels. Some 843 cases of mutual legal assistance in criminal matters were processed in 2021 (784 in 2020) and 701 cases in civil matters (671 in 2020). The main partners continued to be the Western Balkans and the EU Member States.

Eurojust and Montenegro signed a cooperation agreement in May 2016, with the liaison prosecutor taking up duties in December 2017. Liaison prosecutors play an important role in facilitating ongoing investigations into serious cross-border organised crime and terrorism, given the increased number of cases that have connections with the Western Balkans. Montenegro's cooperation with Eurojust continued. Some 17 cases involving Montenegro were opened in Eurojust in 2021 (from 23 in 2020), including three cases launched by Montenegro. A working arrangement with the European Public Prosecutor's Office (EPPO) was signed in September 2022.

In September 2021, Montenegro concluded for the first time an agreement with a third country (the Republic of Moldova) to establish a joint investigation team on a common drug trafficking and money laundering case, enabling coordinated searches, arrests and seizures in both countries. The joint investigation team was supported by the IPA II project 'Countering Serious Crime in the Western Balkans'.

## **Legal and irregular migration**

### Institutional set-up and legal alignment

Montenegro's legal framework on legal and irregular migration is largely aligned with the EU *acquis*. The 2021-2025 strategy on migration and reintegration of returnees was adopted in September 2021, aligning the policy framework with the EU *acquis* and best practices on legal migration, asylum, and prevention of irregular migration, readmission, return, integration, internally displaced persons (IDPs) and statelessness. In June 2022, Montenegro joined the European Migration Network (EMN), an EU network of migration and asylum experts, as a non-voting observer member. Montenegro still has to nominate a national contact point.

Montenegro concluded a readmission agreement with the EU and 15 implementing protocols on readmission with EU Member States. In October 2021, a **readmission agreement** with Georgia was signed, bringing to 12 the number of readmission agreements with third countries. The diplomatic steps initiated in 2019 towards Pakistan, Morocco, Iraq, Iran, Algeria and Bangladesh for negotiating readmission agreements were renewed in 2021 but remained unanswered so far. Negotiations of a readmission agreement with Ukraine have started.

### Implementation and enforcement capacity

Both legal and irregular migration remained at relatively low levels in 2021 compared to the levels before the COVID-19 pandemic. There was nevertheless an upward trend in legal labour migration compared with 2021, which benefited from higher demand in the tourism and construction sectors. Some 38 676 temporary residence and work permits were issued (up from 34 755 in 2020).

The number of migrants registered on the territory of Montenegro in 2021 slightly increased (3 405 migrants compared with 3 149 in 2020). A large majority of them were Afghan, Moroccan, Bangladeshi and Iran nationals. The main migration routes through the country, from the Albanian border to Bosnia and Herzegovina (less often to Croatia and Serbia) remained unchanged. From August to November 2021, the army was once again called in to

support the border police at the border with Albania. The Montenegrin authorities prevented 834 illegal border crossings in 2021 (293 in 2020).

There was no new investigation ordered by the Special Prosecutor's Office into migrant smuggling in 2021. Some 104 migrants, mainly from Serbia, Türkiye and Kosovo\*, were detained in the detention centre for foreigners in Spuž.

Secondary movements sharply decreased from 2020. In 2021, Montenegro readmitted 104 third-country nationals from neighbouring countries under bilateral readmission agreements (312 in 2020), mainly from Bosnia and Herzegovina (66). Readmission from Montenegro to neighbouring countries decreased to 60 people (from 245 in 2020).

In 2021, the number of voluntary returns from Montenegro increased to 36 people (10 in 2020 and 41 in 2019). Some 30 returns to neighbouring countries were processed by the border police and 6 returns to countries of origin by the International Organisation for Migration. Notwithstanding the existing administrative obstacles (absence of consular missions of countries of origin in Montenegro), a more proactive voluntary return policy for those with no right to stay should be developed and necessary funds should be allocated.

The **EU-Montenegro readmission agreement** and its 15 implementing protocols with EU Member States continued to be implemented satisfactorily, with the number of readmission requests from EU Member States and Schengen associated countries continuing to decline (153 requests for readmission of 238 people in 2021, of which 78 requests were answered positively). Institutional capacities for the reintegration of Montenegrin citizens returned to Montenegro under a readmission procedure were strengthened both at central and local levels, through a multidisciplinary approach and cooperation with NGOs. However, integration problems persist, such as school enrolment of returned children without a school background and access to jobs.

Montenegro still does not have a modern migrant fingerprinting identification and registration system connected to a central biometric database. Instead, migrants' fingerprints are collected using ink on paper. A masterplan laying down the technical requirements for setting up a modern system was drafted in close cooperation with the European Border and Coast Guard Agency (Frontex). However, significant investments are needed to actually establish the system (a crucial tool for the exchange of migrant biometric data between Montenegro's key institutions) and to eventually connect it to Eurodac upon accession.

Montenegro must continue its efforts to cope with migratory pressure, by developing its international cooperation on readmission, supporting the successful reintegration of returnees, raising its capacity to prosecute migrant smuggling networks and by setting up a modern migrant data collection system, compatible with Eurodac.

## **Asylum**

### Institutional set-up and legal alignment

Montenegro's legal framework on asylum is largely aligned with the EU *acquis*. The necessary institutions are in place to handle asylum applications. A cooperation roadmap with the European Asylum Support Office (now the EU Agency for Asylum) was signed in December 2021. The roadmap is intended to strengthen Montenegro's asylum system, including the status determination procedure, the reception conditions, and to develop contingency planning.

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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.

In 2021, Montenegro hosted 42 people with international protection status (37 in 2020), of which 8 were employed. The main countries of origin are Afghanistan, Morocco, Iran and Pakistan. The assistance package includes financial assistance, access to healthcare, education, employment, free legal aid, language courses and psychosocial assistance. Accommodation is provided for 2 years (with the support of the UNHCR). However, access to jobs and the relevant social services, and the proper acquisition of the Montenegrin language remain key challenges for people under international protection. Asylum seekers have no right to open bank accounts, creating additional difficulties in their daily lives and hindering access to employment.

On 10 March 2022, Montenegro adopted a decision granting a one-year temporary protection to people fleeing the Russian war of aggression on Ukraine, similar to the activation by the EU of the Temporary Protection Directive. A coordination body was set up to monitor its implementation. The revision of Montenegro's contingency planning in case of a massive influx is under way, with the support of the EU Agency for Asylum (EUAA). Some EUR 2 million from the state budget were allocated to the Ministry of Interior to provide an emergency response to the influx of refugees from Ukraine.

#### Implementation and enforcement capacity

Montenegro hosted 5 301 Ukrainian nationals at the beginning of the Russian war of aggression against Ukraine on 24 February, 2 148 on the basis of a residence permit and 3 153 as tourists. Between 1 March and 5 June, 24 016 Ukrainian nationals entered the country and 16 398 left it. Some 5 552 Ukrainians, of whom two thirds are women or children, had registered under the temporary protection mechanism by 17 June 2022. Ukrainian refugees are mainly residing in private accommodation, mainly along the coastal area, either for free or paying a low amount of rent. A more coordinated middle and long-term response needs to be provided, with the support of the EUAA. In proportional terms, Montenegro is the Western Balkan partner the most impacted by the influx of Ukrainian refugees, with the number of refugees exceeding 1 % of its population.

The higher number of migrants entering the country in 2021 was reflected in a higher number of asylum requests. In 2021, 3 342 migrants expressed their intention to request asylum (an 18 % increase from 2020), thus completing the first step of the asylum procedure. Afghan nationals formed the largest group even before the change of regime in Kabul, and their numbers increased after it. Although the registration of intentions to request international protection is possible on the whole territory of Montenegro, it takes place mainly at the Božaj migrant centre near the border with Albania, as the centre has the necessary equipment for collecting fingerprints and taking photographs of applicants in line with the procedures in force.

The number of asylum applications, however, drastically fell compared with previous years. In 2021, only 272 people - or 8 % of those who declared an intention to request asylum - eventually lodged an asylum request, which is 50 % less than in 2020. Moroccan nationals, followed by Algerian, Iranian and Afghan nationals made most of the requests lodged. Legal counselling provided by NGOs is available to asylum seekers, as well as interpretation in several languages, provided by the Asylum Directorate. Most of the applicants left the country before the end of the procedure. Out of 63 interviews conducted, 14 asylum seekers received international protection status in 2021. Six more people were granted a protection status in the first 6 months of 2022. They all benefit from an integration plan.

The processing time for asylum applications, which in previous years often lasted more than the regular 6-month timeline and sometimes even exceeded the exceptional timeline of 21

months, was reduced, addressing a recommendation from the European Commission's 2021 Montenegro report. Some cases continued to require a longer time, due to the limited number of staff in charge of processing the applications (8 staff members). Montenegro's capacity with regard to the status determination procedure still needs to be strengthened, in particular on the country of origin information and on key legal concepts such as the safe third country, to improve the country's ability to deal with complex cases. The Administrative Court received 25 appeal claims against the decisions of the Asylum Directorate, as a result of which 4 negative decisions were annulled.

A total of 2 688 migrants were accommodated in the country's reception centres in 2021 (a stable number compared with 2 702 in 2020) including 750 women and 764 children. This reflects a change in the profile of asylum seekers, which now includes a large number of families. The total reception capacity for asylum seekers stands at 189 beds, including 25 in a centre for unaccompanied children that is not devoted exclusively to migrant children. The on-going projects aimed at increasing the reception capacity by expanding the existing premises are not finalised yet. The planned reconstruction works aimed at increasing the capacity of the Božaj migrant centre, with the financial support of the European Union, did not start. The authorities continued to cooperate closely with NGOs such as the Red Cross and the local association of psychologists for the provision of health, psychological assistance and other services in the migrant centres. However, Montenegro's reliance on international donors' assistance for the provision of services in the centres remains significant.

Montenegro still needs to consolidate its asylum system by increasing its reception capacity for asylum seekers as a matter of priority, improving the status determination procedure, establishing an integrated service system for asylum seekers and enhancing the integration measures for people under international protection. Better preparedness for sudden influx and emergency situations, similar to the recent influx of Ukrainians refugees, should be developed with the support of the EUAA.

#### **Visa policy**

Montenegro's visa policy is still not fully aligned with the EU list of countries whose nationals require a visa to the EU. On the contrary, in 2021 and early 2022, Montenegro has deviated further away from the recommended alignment. In May 2022, the government granted a temporary visa exemption to nationals of Saudi Arabia, valid from June to September, with the aim of making up for the decrease in tourists coming from Russia and Ukraine. In total, nationals from 13 countries - Armenia, Kazakhstan, Russia, Azerbaijan, Belarus, China, Cuba, Ecuador, Kuwait, Türkiye, Qatar, Kosovo and Saudi Arabia - are exempted from short-stay visa requirements, either on a seasonal basis or permanently. Seasonal visa exemption measures are not in line with the EU *acquis*, and these countries are on the EU list of countries whose citizens require a visa for the EU. In addition, foreigners having a residence permit in the United Arab Emirates (UAE) may enter Montenegro and stay in the country for up to 10 days without a visa. Several occurrences of abuse of this visa regime were detected by Montenegrin authorities. Montenegro should ensure increased alignment of its visa policy with the EU list of visa-required third countries.

Under the post-visa liberalisation process, Montenegro continued to implement relevant measures to prevent the abuse of the visa-free regime with the EU and reported on it on a monthly basis. After years of continuous decrease, the number of first-time asylum applicants from Montenegro in EU Member States and Schengen associated countries increased in 2021, with 250 applications lodged in 2021 compared with 140 applications lodged in 2020.

Montenegro has 31 consular missions connected through its national visa information system.

In December 2021, Montenegro decided to extend the duration of its investor citizenship programme ('Special Investment Program of Special Importance for the Industry and Economic Interest of Montenegro') for an additional 12 months until December 2022. This was despite the previously announced commitment to end the programme in 2021, and despite the Commission's recommendations to phase the programme out as soon as possible, both in the European Commission's 2021 Montenegro report and the fourth report under the visa suspension mechanism. In March 2022, the Ministry of Interior adopted stricter internal and external checks for all applications, which resulted in freezing the process of pending applications for the time being. In May 2022, Montenegro established additional checks for applicants from Russia and Belarus and initiated a procedure to revoke the citizenship of any person who had been granted citizenship under the programme and is on the list of individuals under international restrictive measures. However, no such case has been identified so far. In June 2022, Montenegro lowered the financial criteria for applying to the programme. A bank guarantee amounting to EUR 1 million is now required, instead of EUR 2.5 million previously. The amendments also allowed the beneficiaries of the programme to add children born after the submission of the request to the list of family members granted citizenship.

Between January 2019 and May 2022, 934 applications have been lodged (279 applicants and 655 family members); 409 applications have been accepted and 3 applications rejected, and 522 applications are being evaluated (152 applicants and 370 family members). In total, 333 Montenegrin passports have been issued under the programme since its establishment in January 2019 (69 of which during the four months of 2022). More than 70% of the passports issued were granted to citizens of the Russian Federation. This programme poses risks such as money laundering, tax evasion, terrorism financing, corruption and infiltration of organised crime and should be terminated.

## **Schengen and external borders**

### Institutional set-up and legal alignment

Montenegro's legal framework is largely aligned with the EU *acquis* in this area. The constructive cooperation with the European Border and Coast Guard Agency (Frontex) under Montenegro's Status Agreement with the European Union continued to yield results and to strengthen the capacities of Montenegro's border police. Under the status agreement with the European Union, Frontex officers with executive powers are deployed at a border crossing point with Croatia and at the National Coordination Centre in Podgorica. In addition, the Police Directorate of Montenegro has had a working arrangement with Frontex since 2009, under which Frontex officers without executive powers are deployed to the country's two international airports and its border crossing points with neighbouring third countries.

In addition, a joint maritime operation to strengthen blue borders' surveillance is being conducted, the first fully-fledged maritime joint operation implemented by Frontex in a non-EU country. Cooperation also takes place through WB-RAN (Western Balkans Risk Analysis Network), within which Frontex and WB RAN member states prepare an annual risk analysis for the Western Balkans. Data is exchanged through the WB RAN network on a daily basis, providing a picture of migrant movements along the Western Balkans routes.

Montenegro cooperates actively with Europol and Interpol on countering cross-border criminal activities, including through Europol's European Migrant Smuggling Centre (EMSC). Montenegro conducted joint cross-border police operations through its participation in the European Multidisciplinary Platform against Criminal Threats (EMPACT) and during the 2-week Mobile 4 Joint Action Day Operation.

The situational awareness and reaction capacity of the border police has significantly increased since the establishment of a coordination centre in 2019. The authorities of Montenegro are aiming to upgrade this structure to a fully-fledged National Coordination Centre (NCC) compatible with Eurosur, including through close cooperation with Frontex. The coordination centre is connected to NCCs of Adriatic Sea countries, within a network exchanging operational information on suspicious and stolen boats. Two representatives of the coordination centre are deployed to Frontex headquarters in Warsaw as part of the SEA 2022 joint operations. Eleven border crossing points are now connected to this centre, while two remain to be connected. However, some equipment and connections to other national surveillance systems are still needed to ensure full coverage of critical areas and larger premises are needed to ensure full functioning of the centre.

The number of job positions in the border police is 1 346, of which 1 307 have been recruited. According to the Schengen action plan, 650 more border police officers would be needed. This lack of staff poses critical challenges in the field and triggers the regular use of the army to supplement the border police for border surveillance functions.

Montenegro continued to implement its strategy on integrated border management and its Schengen action plan. Border management equipment continued to be progressively upgraded in accordance with the Schengen action plan, but reliance on EU and other donors' support remained high. Substantial further upgrades are needed to cope with operational challenges and to improve surveillance of blue and green borders. Monitoring of the implementation of the Schengen action plan relating to equipment should be improved in order to prioritise the purchases. A capability development planning system is also lacking and there is no long-term plan on the development of human resources. The Ministry of Interior conducted an analysis of the Schengen action plan to initiate a strategic reflection on updating it, as the current one was adopted in 2017.

The border police's cooperation with the customs and the criminal police is improving. However, the border police's insufficient autonomy in criminal investigations hampers the development of its analytical capacities and intelligence on smuggling networks. Montenegro has yet to establish an operational Advance Passenger Information System (API).

#### Implementation and enforcement capacity

Some 4 018 migrants were prevented from illegally entering or exiting Montenegro in 2021. Some 71 stolen vehicles were found based on Interpol warrants, as well as 927 targeted people (both thanks to Interpol databases and national arrest warrants) and 203 documents. Some 64 forged documents were seized.

The number of border patrols on land and water increased, but the number of joint border patrols with neighbouring countries remained low in the context of the pandemic, with only 437 joint patrols conducted in 2021 (723 in 2020), including 341 joint patrols on the border with Albania (570 in 2020). The activity of the Joint Police Cooperation Centres increased, with a higher volume of information exchanged.

Montenegro continues to develop its cooperation with neighbouring Western Balkan partners within bilateral border traffic agreements. A new joint border crossing point with Albania at Zatrijebačka Cijevna-Grabon was opened with the financial support of the European Union. While the demolition of 29 cross-border alternative roads with Serbia, agreed in March 2019, has been completed on the Montenegrin side, 15 alternative roads to Serbia and 13 roads to Bosnia and Herzegovina still need to be demolished.

## 2.3. ECONOMIC CRITERIA

Table 2.1:

Montenegro - Key economic figures	2013-18 average	2019	2020	2021
GDP per capita (% of EU-27 in PPS) <sup>1)</sup>	44	50	45	47
Real GDP growth	3.6	4.1	-15.3	12.4
Economic activity rate of the population aged 15-64 (%), total <sup>1)</sup>	62.5	66.2	61.5	59.2
<i>female</i>	55.8	59.1	54.7	52.9
<i>male</i>	69.0	73.3	68.3	65.5
Unemployment rate of the population aged 15-64 (%), total <sup>1)</sup>	17.6	15.4	18.3	16.8
<i>female</i>	17.5	15.9	18.8	16.1
<i>male</i>	17.7	15.0	17.8	17.3
Employment of the population aged 15-64 (annual growth %)	2.7	2.6	-10.1	-2.4
Nominal wages (annual growth %)	0.9	0.8	1.3	1.4
Consumer price index (annual growth %)	1.4	0.5	-0.8	2.5
Exchange rate against EUR	1.0	1.0	1.0	1.0
Current account balance (% of GDP)	-14.0	-14.3	-26.1	-9.2
Net foreign direct investment, FDI (% of GDP)	10.7	6.2	11.2	11.2
General government balance (% of GDP)	-4.8	-2.0	-11.1	-1.9
General government debt (% of GDP)	62.9	76.5	105.3	84.8

Notes:

1) Eurostat

Source: national sources

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

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

### 2.3.1. The existence of a functioning market economy

Montenegro has made good progress and is moderately prepared in developing a functioning market economy. After experiencing a sharp recession in 2020, the economy recorded a strong rebound in 2021 and kept growing at a steady pace in the first half of 2022, as the removal of COVID-19 restrictions buoyed both domestic and external demand. The economic recovery and rapidly rising inflation led to surging revenues and a very large improvement in the budget balance. The fallout from Russia's war against Ukraine has been limited so far, notwithstanding these two countries' very important contribution to Montenegro's tourism in the past. Driven by surging global commodity prices, inflation increased significantly. The government adopted an ambitious fiscal reform programme (called 'Europe Now'), to support the post-pandemic recovery while providing fiscal stimulus measures easing the burden on households from rising energy and food prices. External imbalances decreased significantly thanks to the rebound of tourism, while the situation of

the labour market started to improve even if structural problems persist. The banking system remained stable, and non-performing loans did not increase significantly in 2022 after the loan moratorium adopted in the context of the COVID-19 crisis expired in 2021. However, close supervision is needed to monitor and address risks in view of tightening financing conditions.

Last year's recommendations were partially addressed. In the coming year, in order to improve the functioning of the market economy, Montenegro should in particular:

- once the recovery is entrenched, implement a medium-term fiscal consolidation plan targeting further public debt reduction;
- strengthen fiscal governance by setting up an independent body for fiscal oversight;
- adopt a strategic plan to perform an analysis of all state-owned enterprises and prepare a proposal for the optimal portfolio of state ownership;
- develop and implement concrete measures to reduce the informal economy.

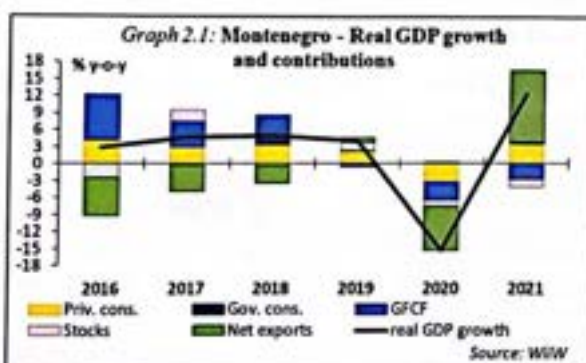
### Economic governance

**A broad consensus was maintained on key economic policy fundamentals notwithstanding changes of government.** The last two governments reaffirmed their strong commitment to the EU path and related economic reforms. Important elements were the support to further diversify the economy according to a smart specialisation strategy based on partnerships between businesses, public entities and academia, and the continuation of the Europe Now programme, a major fiscal reform initiative introduced at the end of 2021 to support post-pandemic recovery. The government expects to limit some of the negative impacts from the war on Ukraine on the local economy by reducing taxes on basic consumption goods and fuels, providing support for agriculture production, and focussing on alternative tourist markets to compensate for the loss of Russian and Ukrainian visitors. The new minority government formed in April 2022, endorsed the conclusions of the Economic and Financial Dialogue between the EU and the Western Balkans and Türkiye on 24 May 2022, agreeing to implement macro-fiscal and structural policies and reforms to foster a strong recovery outlined in the previous government's Economic and Reform Programme (ERP). The policy guidance set out in the conclusions of the Economic and Financial Dialogue of 12 July 2021 were partially implemented.

### Macroeconomic stability

**A strong rebound of the economy in 2021 was largely driven by a revival of tourism.**

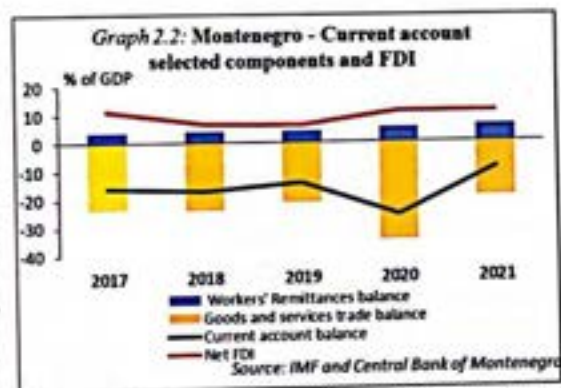
After recording annual growth of some 4.6% on average since 2017, in 2020 Montenegro's economy registered one of the deepest contractions in Europe (-15.3%) due to the COVID-19 crisis and the large role of tourism in the economy. GDP growth rebounded strongly by 12.4% in 2021, following the reopening of borders and the ensuing robust revival of tourism. The recovery of tourism had positive spillover effects across the economy, including on net exports and, to a lesser extent, private consumption. Government consumption increased only moderately, as COVID-19-related support measures started to expire. Investment activity remained weak, contracting by 10% y-o-y in 2021. The outbreak of Russia's war against Ukraine in February 2022 had so far limited direct impact





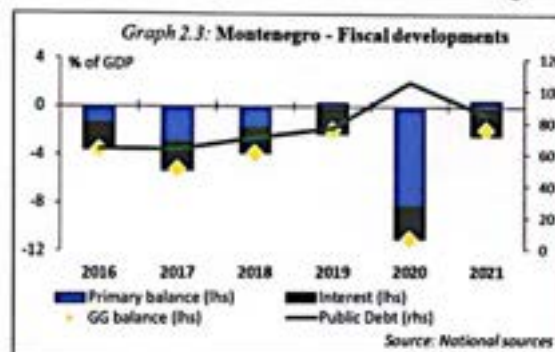
on Montenegro's economy, as the country is not reliant on Russian gas or oil. However, Montenegro is exposed to Russia and Ukraine in terms of tourism and investment (the latter mostly in real estate). Further withdrawal of COVID-19 containment measures and strong growth in tourism activity boosted annual GDP growth in the first quarter of 2022 too, rising by 7.2% over the year. Domestic demand was fuelled by a two-digit surge in private consumption, while government consumption and capital formation grew at a more moderate pace. However, net exports had a negative contribution to economic growth, as strong demand and rising import prices broadened the trade deficit. Overall, the rebound of the economy brought partially back Montenegro's level of per-capita income in purchasing power standards to 47% of the EU-27 average in 2021, compared to 45% in 2020, but still remains below the 50% level registered in 2019.

**The strong recovery of tourism helped reduce the external deficit.** Montenegro has been recording very high current account deficits in the last five years, averaging 16.5% of GDP since 2017. The current account gap narrowed to 9.2% of GDP in 2021, compared to 26.1% of GDP a year before. This sizeable improvement was mainly driven by a surging surplus in the services account, which reached 19.5% of GDP in 2021 compared to 4.2% in 2020 thanks to recovering tourism, and almost equalled its pre-pandemic level. Moreover, inflows from compensation of employees working abroad and from remittances also expanded in 2021. By contrast, the merchandise trade deficit widened to 39.0% of GDP in 2021 due to a fast growth in imports driven by stronger domestic demand and rising global commodity prices. The rapid increase in exports did not suffice to compensate for stronger import growth, as merchandise exports covered only 21.5% of total imports. The reopening of the economy resulted in a fast recovery in net FDI too, which surged 23.5% y-o-y in nominal terms and totalled 11.2% of GDP in 2021, thus surpassing the external deficit. Investment in real estate was almost 2.4 times higher than a year earlier. On the other hand, investment into intercompany debt dropped by 24.6% y-o-y, as local firms required less support from their foreign parent companies. The recovery in FDI inflows continued in the first half of 2022. The current account deficit increased significantly in the first half of 2022, by 31% year-on-year, driven by a sharp rise in the value of imports. The stock of international foreign exchange reserves declined from the equivalent of 6.8 months of imports of goods and services at the end of 2021, to 5.3 months in the second quarter of 2022.



**Inflation has been increasing substantially but Montenegro has a very limited set of monetary policy tools to tackle it.** Inflation remained low in the period 2017-2020, averaging 1.3%. However, since March 2021, higher food and energy prices kept generating inflationary pressures, with the harmonised index of consumer prices rising on average by 2.5% in 2021 and by 4.5% y-o-y at the end of year, compared to -0.8% average contraction in 2020. Russia's war against Ukraine exacerbated price pressures and inflation has remained elevated throughout 2022. In the first seven months of 2022, consumer prices increased in Montenegro by an average of 13.7% y-o-y, compared to (8.9%) in the euro areas.

**Public finances recorded a significant improvement since 2021, but both revenue and expenditure reforms are still needed to support a sustainable consolidation path.** The strong increase in budget revenue, together with capital budget under-execution and lower spending on goods and services, enabled a significant improvement of the fiscal position in 2021. The budget deficit came in at 1.9% of GDP, lower than the originally planned 2.8% of GDP. This was a very sizeable improvement compared to the deficit of 11.1% of GDP recorded in 2020 or the average deficits of some 5.2% of GDP registered since 2017. Apart from the economic rebound, budget revenue was supported by the introduction of higher excise rates, the electronic fiscalisation of businesses' cash registers, increased tax discipline and the transfer of public companies' profits to the central budget. In 2021, public expenditure declined by 2% y-o-y, thanks to lower needs to finance COVID-19 support measures and social transfers, and delays in public investment. The 2022 budget, which was adopted in December 2021, introduced a progressive income taxation system and abolished mandatory health insurance, thereby significantly reducing labour costs, but also entailing a permanent reduction in revenue. At the same time, some of the planned revenue-increasing measures were rejected by the parliament while new social initiatives were adopted without accompanying financing measures, putting at risk the targeted budget balance once these are implemented in the second half of the year. With budget revenue boosted by the economic recovery and high inflation, the central government deficit amounted to only 0.6% of the projected GDP in the first half of 2022, compared to a deficit target of 5% for the year as a whole. On 25 May, the parliament adopted a budget revision as the new government established in April increased the number of ministries.



**A high level of public debt continues to be a key vulnerability, even though the debt ratio recorded a strong decline.** The public debt stock reached a record high level of 105% of GDP at the end of 2020. In 2021, the government made use of its reserves to pay back maturing debt, which, combined with the strong economic rebound and the budget primary surplus, resulted in a reduction of the debt ratio to 83.3% of GDP. In the first quarter of 2022, the public debt decreased further, to 76.6% of GDP. However, with global financing conditions worsening, debt-related vulnerabilities remain high.

**Montenegro macroeconomic policy mix is constrained by the lack of an autonomous monetary policy and a complicated political situation compromising the efficiency of the fiscal policy.** The unilateral use of the euro means that the Central Bank of Montenegro cannot influence interest rates and money supply, and therefore the country would need to tighten fiscal policy to constrain price growth. In spite of the complex situation, the authorities' policy response managed to reduce significantly the budget deficit and public debt, orderly unwinding the COVID-19 support measures in 2021, and providing households with a significant increase in real disposable income since beginning of 2022. Overall, despite two changes of government (in December 2020 and April 2022) economic and fiscal policies remained broadly sound, notwithstanding some hasty social spending measures and overambitious public investments plans.

#### Functioning of product markets

##### *Business environment*

**The recovery of economic activity has been reflected in the growing number of registered businesses.** So far, electronic registration remains only available for single-member limited liability companies. This does not seem to represent a major obstacle given the increasing number of newly registered businesses. The reduction of a significant number of local taxes and fees, and the availability of some 40 support programmes in addition to the pandemic support measures helped to promote entrepreneurship. Thus, at the end of 2021, the number of business increased by 8.7% to 65,621; this compares to 60,361 in 2019 before the COVID-19 crisis. Also in December 2021, the government adopted a program to attract digital nomads, offering tax reliefs on personal income to foreign companies' teleworkers.

**The out of court's bailiff system remains the key pillar for enforcement of debt claims, but needs to be reinforced.** In 2021, the number of debt claim cases increased by 15.6% y-o-y. However, almost two thirds of cases received during 2021 are still pending, stressing the need to reinforce the debt collection system. The Commercial Court presents a higher rate of successful case handling, receiving 1,065 cases in 2021 and solving 95.4% the same year, with an average time for resolution of bankruptcy proceedings of 221 days compared to 234 days a year before. Overall, Montenegro's bankruptcy system is relatively well functioning, but some extreme cases are negatively affecting the average proceeding time.

**Government efforts to reduce informality need to continue and require more focus in the coming years.** The abolition of health contributions in 2022 reduced some of the disincentives for employers to formalise employment. However, the government still needs to adopt a comprehensive action plan (pending the completion of a survey on informality among enterprises and households) for fighting the informal economy, including the strengthening of enforcement capacities, and in particular, tax and labour inspections.

#### *State influence on product markets*

**State influence on the economy remains limited, despite some recent measures aimed to contain price increases.** The ministry of economic development proposed in December 2021 the free formation of prices of white bread as of January 2022. As a result, bread price surged by 30% as of 10 January 2022. In an effort to contain the increase in the cost of living, the Parliament approved on 11 May 2022 a special law allowing the government to set temporary price caps on key essential products. Following this, the government reduced in June 2022 the amount of excise duty for the sale of unleaded fuel and gas -oils by 50% and limited the price margins of flour, sugar, table salt and cooking oil by up to 5% on the wholesale price of the products and by 7% the retail price. The government has also approved additional EUR 1 million to be used, amongst others, for market interventions to ensure price stability of agricultural commodities. Overall, the allocated amount for subsidies in the general government budget has remained limited, averaging 0.8% of GDP annually since 2017. The Agency for Protection of Competition (APC) increased the number of competition and state aid investigations and established a general register of state aid to ensure better transparency and monitoring of public aid. Thus far, the major beneficiary of state aid has been Montenegro Airlines. The company has been under bankruptcy procedures since mid-2021. In December 2021, the parliament adopted a law annulling the decision from 2019 that granted Montenegro Airlines EUR 155 million over a 6-year period. However, a plan to recover the funds already disbursed still needs to be adopted.

#### *Privatisation and restructuring*

**The privatisation process is quite advanced considering the limited number of state-owned enterprises (SOEs); however, important challenges remain in terms of their governance and profitability.** In July 2022, the government decided to liquidate the public

company 'Montenegro Works' established less than one year earlier by the previous administration. The goal of this company was to relaunch the privatisation agenda, define an optimal portfolio of state ownership after transforming SOEs' management structures, eliminate political patronage and improve financial performance to reduce fiscal risks (a challenging task considering that financial statements of 53% of SOEs audited are not aligned with international financial reporting standards and several companies are running losses). The government intends instead to develop a system to monitor public companies' business operations and the related fiscal risks. This new system would be supported by a dedicated department at the Ministry of Finance as well as the independent analysis of a fiscal council, yet to be established. These plans do not seem to address, however, the fundamental issues of optimising state ownership portfolio and improving overall SOEs governance and fall short on Montenegro's Economic Reform Programme commitments.

Meanwhile, the government increased its founding capital as shareholder of the new national airline company "To Montenegro". However, the sustainability of this company is yet to be ensured, as debt started soon to accumulate since its first year of operation. The second stage of the tender procedure for a 30-year concession of the two international airports (Podgorica and Tivat) remains on hold as the new government has not decided yet whether to cancel or continue the procedure. After establishing a commission to audit past sales contracts, the privatisation council has not held any sessions since July 2021.

#### Functioning of the financial market

##### *Financial stability*

**The banking sector proved to be resilient and the financial sector stability has overall been maintained.** The banking sector further consolidated after recording two mergers in 2021, reducing the total number of banks in Montenegro from 13 to 11. Yet, the ownership structure of the banks' capital did not change significantly. At the end of 2021, bank's capital was predominately foreign with an 85% share, originating mainly from large banking groups from the EU in control of 79.9% of the banking market, while the share of domestic capital totalled 15%. The Central Bank of Montenegro (CBCG) concluded in September 2021 an asset quality review (AQR) for all domestic banks according to the ECB methodology. Results confirmed the stability and strong position of the domestic banking system at the start of the COVID-19 crisis. During the pandemic, the CBCG adopted ten packages of temporary measures aimed at preserving the liquidity and solvency of domestic banks. As a result, the balance sheets of domestic banks recorded significant growth, and the capital adequacy ratio totalled 18.5% at the end of 2021, well above the statutory minimum of 10%. The phasing-out of fiscal support and targeted loan moratoria did not lead to a significant deterioration in the quality of the loan portfolio, but risks remain and should be closely monitored, in particular in the context of a worsening growth outlook and tightening financing conditions. The NPL ratio increased to 6.2% at the end of 2021 up from 5.5% the year before, to peak at 6.9% in January 2022 and to start declining gradually afterwards, reaching 6.3% in June.

##### *Access to finance*

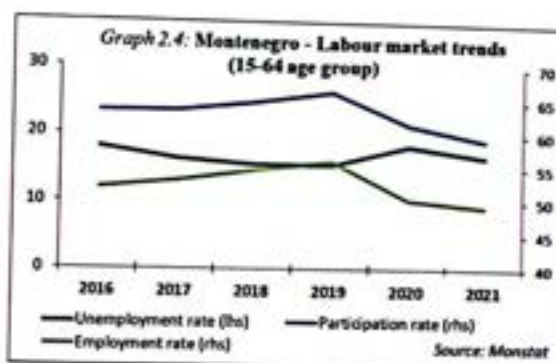
**Credit activity has been growing continuously since 2019, supporting the corporate sector in particular.** Total loan growth accelerated from 5.0% y-o-y in 2020, to 6.6% y-o-y in 2021 and further 6.8% y-o-y in June 2022. The rapid increase was led by lending to the corporate sector, while the increase in loans to households remained moderate and loans to the public sector decreased. The recovery of the economy has been reflected in a fast increase in banks' deposits too, which went from a 2.6% y-o-y contraction in 2020 to a 12.8% y-o-y expansion in 2021, and a surge by 21.4% y-o-y in June 2022, again led by the corporate

sector. Although trending down, lending interest rates are still high presenting one of the major obstacles to access finance, in particular for small businesses. In March 2022, the government adopted a law to establish a national Credit Guarantee Fund. With the support from the EBRD, work commenced to establish a roadmap and overarching framework for the new institution.

**The size of the non-bank financial sector remains marginal.** The stock market's role in the local economy is very small in terms of market turnover (0.95% of GDP in 2021), while the assets of insurers represent around 2% of GDP. Microfinance is the most commonly used source of alternative finance, with assets accounting for some 1.6% of GDP in 2021.

#### Functioning of the labour market

**The labour market continues to suffer from structural deficiencies.** The outbreak of the COVID-19 in March 2020 was rapidly followed by a sharp decline in employment and a surge of unemployment due to the collapse of tourism. Despite several state-support packages, employment kept contracting until June 2021. As a result, employment declined on average by 2.4% y-o-y in 2021, after recording a 10.1% y-o-y plunge a year before. By contrast, the



unemployment rate witnessed some relative improvement in 2021, falling to 16.9% compared to 18.4% a year earlier. However, the reason for this decrease in unemployment was a lower participation in the labour market, which fell from a peak of 66.2% in 2019 to 59.2% in 2021. The employment rate bounced back to 54.4% in the first quarter of 2022, up from 44.8% a year before, practically recovering pre-pandemic levels. The reduction of the unemployment rate was particularly pronounced for women, reaching 15.5% in 2022 Q1 compared to a much higher rate of 19.7% a year ago, as services –where a majority of women work– recovers faster than the industrial and construction sectors, where men are majority. As a result, the pace of reduction of men's unemployment rate was significantly slower, declining to 18.3% in 2022 Q1 compared to a 19.5% rate a year earlier. Overall, the pandemic highlighted the structural deficiencies of Montenegro's labour market. Youth and long-term unemployment remain high and there are considerable regional disparities (e.g. 5% unemployment rate in the coast, compared to substantially higher levels in the central and northern areas of 11.9% and 36.7%, respectively). Overall, the provision of active labour market policies is not effective in activating people on the labour market. Moreover, the country lacks a continuous monitoring mechanism of active labour market measures, which should be carried out by the Employment Agency of Montenegro. However, the reform of the currently ineffective institutional setup of the Agency has not been implemented. The effective application of the labour law has been hampered by poor implementation and malpractice. For instance, to avoid dismissal costs employers request new hires to sign resignation letters upon recruitment. Moreover, there has been no cases where a foreign investor has been successful in court in relation to the application of the labour law. Real wage growth was negative between 2017 and 2021, except for a deflationary period in 2020. Despite accelerating inflation, the government boosted households' real disposable income in 2022, after rising the minimum gross wage by 43% (which translates into an 80% increase in net terms), and reducing significantly the tax wedge on labour. As a result, the net average wage climbed to EUR 707 in April 2022, up from EUR 537 at the end of 2021.

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

Montenegro has made **some progress** and is **moderately prepared** to cope with competitive pressure and market forces within the EU. The last two governments worked to improve innovation capacities and to set the basis for a green and digital transition in an effort to diversify Montenegro's narrow production base. In particular, modern telecommunication and ambitious green energy projects are being deployed. However, infrastructure gaps persist, as the country administrative and financial capacities to identify, prioritise and to implement major public investments remain limited, hampering the use of EU support. The education system still faces numerous challenges with a chronic shortage of science, technology, engineering and mathematics (STEM) graduates. In addition, the low value-added of domestic products, the small size of local companies and their low level of participation in exports represent obstacles for increasing the productivity and competitiveness of local firms.

As some of the 2021 recommendations have not been fully implemented, in the coming year Montenegro should in particular:

- continue implementing digital services for micro, small and medium enterprises and prioritise the development and implementation of interactive e-government platform for transactional electronic services;
- improve dual VET and tertiary education programmes in close cooperation with business associations;
- Implement the public investment management assessment (PIMA) recommendations, prioritising key public infrastructure works without endangering public finances.

#### Education and innovation

Montenegro's education system faces numerous challenges. Due to the COVID-19 pandemic, little progress has been made in advancing reforms to improve the quality of education on the basis of agreed action plans. Recent tests had confirmed that both the quality and relevance of the education system, including the lack of practical experience of graduates from vocational and higher education, remain key challenges. The occupational mismatch appears particularly high for tertiary education graduates, with a chronic shortage of medical and STEM graduates, putting at risk Montenegro's smart specialisation strategy. The high transition rate from vocational education to some higher education programmes without occupational demand in Montenegro's labour market aggravates youth unemployment. The recent strategy for digitalization of the education system (2022-2027) aims to make internet available in all schools.

Montenegro increased the budget allocation for research and development but it still remains modest, totalling 0.15% of GDP in 2022, compared to the EU average of 2.3%. In 2021, only 18% of Montenegrin firms introduced a new product or service compared to a 37% average in the Western Balkans. Moreover, 80% of local firms declare that they do not invest in R&D. To improve this situation, the government established the Innovation Fund in September 2021 as a state-owned limited liability company. The main activity of the Fund is to provide financial resources for the development of innovative entrepreneurship and to encourage cooperation between the scientific and economic sectors. In April 2022, the Fund launched its first two calls for support schemes for entrepreneurs. After some initial delays, the construction of a large Science and Technology Park in Podgorica is in progress. Works also continues on the development of an information and communication technology

cluster to support the implementation of the smart specialisation strategy. The local IT industry is relatively small but it has been developing fast in the last three years. In March 2022, the Ministry of Economic Development and the University of Montenegro decided to establish a National Technology Transfer Office within the Science and Technology Park in Podgorica.

#### Physical capital and quality of infrastructure

**Efforts are ongoing to support the digital and green transition but infrastructure gaps remain.** In December 2021, the Government adopted the Strategy for the Digital Transformation of Montenegro (2022-2026), which takes a comprehensive, horizontal approach and contains objectives related to the development of digital infrastructure and connectivity. The telecommunications sector keeps developing fast. In December 2021, the first three 5G frequency licences were granted and one operator already launched commercial 5G mobile *network* services. Access to green finance has been strengthened with the establishment of the Eco Fund (2020), providing financial support for the development of projects in the fields of preservation, sustainable use, protection and improvement of the environment, energy efficiency, and use of renewable sources. Reconstruction of the Pljevlja thermal power plant to reduce its environmental impact was launched in April 2022. In order to advance gradually with the transition away from coal, Montenegro's national utility company is preparing a study for the construction of gas-fired power plants. The government withdrew concessions for several smaller hydropower plants, but continues with plans for larger ones, while the private sector advances with plans for constructing new wind and solar capacities. The first section of the Bar-Boljare highway was opened to traffic in July 2022, with a three-year delay. The EU-financed feasibility study and cost-benefit analysis for the entire Bar-Boljare highway, including on recommended construction standards and means of financing for the remaining sections, is underway and it should be completed in 2022. Meanwhile, works on the Adriatic-Ionian expressway could not start yet as preparation of the Budva bypass section preliminary design work was not mature enough. The upgrade of the railway network continued but with delays in some sections.

#### Sectoral and enterprise structure

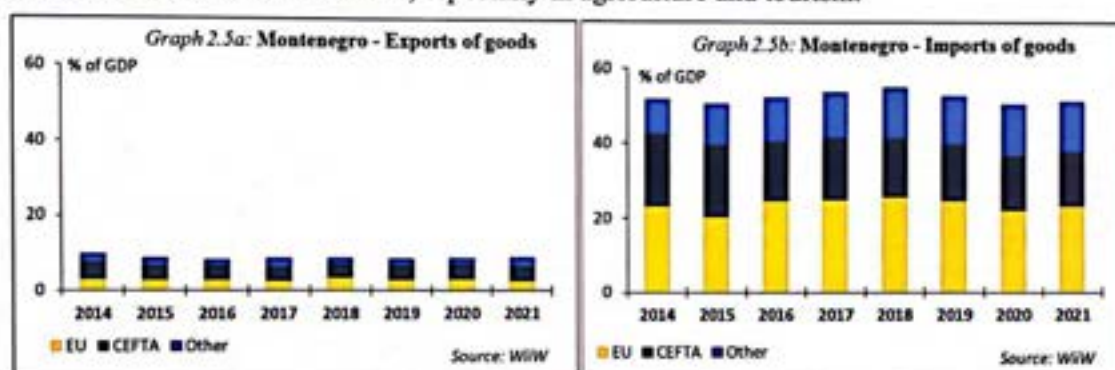
**The structure of the economy has remained broadly unchanged, but adjustments are taking place within sectors.** Overall, small and medium size companies remain the backbone of Montenegro's economy, accounting for some 94% of total firms. The distribution of employment remained stable, with the services sector absorbing roughly three quarters of total employment in 2021, while industry and construction (16.9%) as well as agriculture (6.4%) accounted for a much lower shares. Within services, tourism is predominant, contributing a quarter of Montenegro's GDP. The sector was severely hit by the COVID-19 crisis but recovered better than expected in 2021 and 2022. Visitors from Russia and Ukraine used to make up a significant share of foreign tourists. In order to limit the negative impact of the war against Ukraine, the sector has shifted its focus to other markets. The metallurgical sector recorded a major adjustment following the surge in energy prices resulting in the stoppage of the aluminium smelter as well as of the Niksic's ironworks due to unsustainable production costs. The halt in production of the metal producers provided a major opportunity for the energy sector, which exported at substantially higher prices<sup>9</sup> the electricity surplus not consumed by the industry. The energy sector is currently engaged into its green transition, developing a number of renewable generation plants.

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<sup>9</sup> Large industrial consumers enjoyed significant rebates in energy prices.

## Economic integration with the EU and price competitiveness

The economic recovery boosted external trade and brought the trade openness ratio back to its pre-pandemic level. During 2021, Montenegro's foreign trade expanded by 19.1% y-o-y, while bilateral trade with the EU followed the same trend, growing 12% over the year. Overall, the total exchange of goods and services recovered to pre-pandemic levels, totalling 105.8% of GDP in 2021, after having plunged to 86.3% in 2020 as a consequence of the recession induced by the COVID-19 crisis. The EU remains Montenegro's main foreign partner, accounting for 31.1% of total exports and 45.7% of total imports of goods. CEFTA countries also remain an important market, accounting for 43.2% of Montenegro's total exports and 28.5% of total imports of goods. The EU also remains the main source of FDI inflows for Montenegro, registering 36.4% of total FDI inflows in 2021, compared to 27.0% a year before. The low processing level of domestic products and the very small size of local businesses represent two key challenges for boosting Montenegro's export performance. To remedy this, the government's micro- and small-sized enterprises strategy supports establishment of vertical clusters, especially in agriculture and tourism.



## 2.4. PUBLIC PROCUREMENT, STATISTICS, FINANCIAL CONTROL

### Chapter 5: Public procurement

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

Montenegro is moderately prepared/has a good level of preparation on public procurement. Good progress was achieved in 2021, with full implementation of the electronic procurement system and further improvement in the functioning of the remedy system. Last year's recommendation on e-procurement was met.

In the coming year, Montenegro should:

- further improve the functionality of the e-procurement system and its interoperability with state administration registers;
- fully respect the EU public procurement rules in all relevant cases, such as when awarding the concession to operate Airports of Montenegro.

### Institutional set-up and legal alignment

The legal framework on public procurement is well aligned with the EU *acquis*. The government adopted a new 2021-2025 strategy for improving public procurement and public-



private partnership policies in October 2021. An accompanying action plan for 2022 was adopted at the same time.

The electronic public **procurement system** became fully operational in 2021. By June 2022, all 662 contracting authorities and 3 687 economic operators were registered in the system. The implementation of e-procurement has the potential to significantly reduce the risks of corruption and breaches of competition rules, limiting the number of appeals. Further functionalities of the e-procurement system should be implemented in the course of 2022, including connections to the electronic registers of the Ministry of Justice and the Revenue and Customs Administration. These improvements will be instrumental for eligibility checks on the economic entities that participate in public procurement procedures and should further increase the transparency and fairness of the procurement system in Montenegro.

The tender for the **concession to operate Airports of Montenegro**, suspended in 2020, has not been reactivated yet. Full compliance of this and any other relevant procedure with the EU rules and standards of fair and transparent public procurement, providing value for money, competition and strong safeguards against corruption, would be essential for Montenegro in line with the requirements of this negotiating chapter.

#### Implementation and enforcement capacity

Montenegro's **public procurement market** corresponded to 4.47% of GDP in 2021 and the value of all public procurement procedures amounted to some EUR 220 million. This was much below the values achieved in 2020 and caused by the very late adoption of 2021 state budget, major organisational changes in the public administration and COVID-19 crisis.

On the **monitoring of contract award and implementation**, the Public Procurement Inspectorate executed 297 controls, the number increasing by 18 % in comparison to 2020. Most controls related to contract conclusion and execution phases.

A regulatory and institutional framework is in place on **integrity and conflict of interest** in public procurement.

The **capacity to manage public procurement** processes continued to improve, to a large degree thanks to the introduction of e-procurement. Nonetheless, the high number of contracting authorities remains an obstacle to the overall efficiency of the procurement system. The capacity of smaller municipalities to conduct larger and more complex public procurement procedures, including under EU-financed projects, remains very limited. The Directorate for Public Procurement Policy in the Ministry of Finance systematically organises trainings on the legal framework in public procurement and examinations for candidates for procurement officer positions. It also prepares and publishes technical instructions and expert guidance on the procurement rules.

#### Efficient remedy system

The legislation on the **right to appeal** is broadly in line with the EU *acquis*. Cases are handled by the Commission for Protection of Rights in Public Procurement Procedures.

The Commission received 162 complaints in the period 15 June 2021-15 June 2022, a decrease of 33% in comparison to the previous period. The Commission also acted on 20 judgements received from the Administrative Court of Montenegro, which represent cases returned for reconsideration. There were no significant delays in the treatment and resolution of the complaints.

The Supreme Court of Montenegro conducted five extraordinary reviews of the decisions taken by the Administrative Court on procurement procedures and in one case upheld a request for the review of the decision.

### Chapter 18: Statistics

*EU rules require that Member States are able to produce good quality statistics in line with the principles of the European statistics Code of Practice and 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. **Limited progress** was made on last year's recommendations. Work continued on harmonising the statistical methodology with EU standards and increasing transmission of data to Eurostat. However, pending issues remain with regard to insufficient financial and human resources of the Statistical office of Montenegro (Monstat) and its lack of expertise in some areas; systematic cooperation and coordination of tasks between the Ministry of Finance, the Central Bank of Montenegro and Monstat; transmission of some fundamental datasets such as government finance statistics, as well as financial accounts and excessive deficit procedure tables to Eurostat. Thus, the 2021 report recommendations remain valid.

In the coming year, Montenegro should in particular:

- considerably strengthen the human and financial resources of Monstat, so that it can fully fulfil its responsibilities and retain expert staff;
- make significant progress in aligning with the European System of Accounts (ESA) 2010, including providing government finance statistical data and all available excessive deficit procedure data;
- carry out the national population and housing census in line with EU requirements and recommendations and allocate sufficient resources for the exercise.

The legal framework for **statistical infrastructure** is broadly in line with the European Statistics Code of Practice. Monstat is the main producer and overall coordinator of statistics. The current number of employees in Monstat remains slightly above 50% of the number of posts foreseen in the organisation chart. While a new Director was appointed in March 2022, the new building for the Statistical office has still not been provided. The Statistical Office accomplished the automation of three statistical releases (consumer price index, arrivals, overnight stays of tourists in collective accommodation and average wages) with monthly data collection and its publication (in Montenegrin and English).

During 2021, the Statistical Office worked on improving **statistical products and processes** by introducing a self-assessment system of the statistical production process, increasing the number of quality reports for users on the official website of Monstat. In May 2022, Monstat launched a User Satisfaction Survey, the previous one dating back to 2017.

On **classifications and registers**, there is high compliance in terms of implementation of the current versions of the NACE (Nomenclature of Economic Activities), CPA (Classification of products by activity), ISCO (International standard classification of occupations) and ISCED (International standard classification of education) classifications. Montenegro is medium compliant on business registers, and it needs to improve the quality, especially regarding completeness of mandatory variables.

In the area of **macroeconomic statistics**, and specifically national accounts statistics, Monstat published a number of data sets related to the gross national income (GNI) and the

gross domestic product (GDP) in accordance with ESA 2010. In order to improve Consumer Price Index / Harmonised Index of Consumer Prices, a new software application for calculation was created, which automatised the data processing and resolved inconsistencies in the index aggregation. The required sets of monthly international trade in goods data are regularly submitted to Eurostat according to the new data structure. In the field of trade in services, steps were taken in estimating the Financial Intermediation Services Indirectly Measured (FISIM) statistics: the data was published and transmitted to Eurostat. Monstat makes efforts to comply with ESA 2010 methodology filling out more variables within the tables for time series 2006-2020, but further efforts are needed in that regard (e.g. calculation of GDP by income approach, and introducing non-financial sector accounts).

**Government finance statistics** are not sent to Eurostat. As regards excessive deficit procedure data, tables are still sent mostly empty. The methodological background, legal and institutional framework and adequate human resources are needed. In the area of monetary and financial statistics, the Central Bank of Montenegro (CBM) continued to report regularly to Eurostat and transmitted quarterly balance of payments (BoP) data for 2021, as well as preliminary annual data for 2020 and revised data for 2019 in the field of foreign direct investment. Montenegro is encouraged to start sending monthly BoP data to Eurostat and to further improve the geographical breakdown of BoP and IIP (international investment position) data.

In the area of **business statistics**, the harmonisation of short-term indicators with international standards of all domain statistics (industry, construction, retail trade and services) continued. This data is calendar and seasonally adjusted and forwarded to Eurostat in the required format.

In the area of **social statistics**, the Law on the census of population, households and dwellings still needs to be adopted by the Parliament. The timeline of the census is still to be specified. By December 2021, the data collection fieldwork for a survey on gender-based violence was completed, and data for a survey on income and living conditions for 2020 was sent to Eurostat. The 2021 survey was conducted via a new method of Computer Assisted Personal Interviewing (CAPI) in April-May 2022. Monstat started conducting a regular survey on Innovative activities of companies for the period 2018-2020 (data collected in the second half of 2021).

In the area of **agriculture statistics**, the preparation of the draft Law on the agricultural census is ongoing. Meanwhile, the implementation of the CAPI method for annual surveys in crop and livestock production was expanded to eleven municipalities. Preliminary data on pesticide sale and organic production for 2020 was submitted to Eurostat in June and December 2021, respectively.

In the area of **environmental statistics**, while Montenegro is overall highly compliant in waste statistics, some actions are needed to provide final and not provisional data to Eurostat and to capture information on secondary waste. Environmental accounts are still not in compliance with the EU requirements.

**Annual energy statistics** are produced and fully harmonised with European legislation although they are delivered one month after the deadline. SHARES statistics (renewable energy sources) for Montenegro are available on the basis of energy balance data that are regularly transmitted to Eurostat. Energy price statistics are fully compliant with the relevant EU acquis. However, monthly reporting, as well as data concerning final energy consumption of households were not delivered. Montenegro is medium compliant in energy statistics.

## **Chapter 32: Financial control**

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

Montenegro is **moderately prepared** on financial control. Overall, **limited progress** was made on the implementation of last year's recommendations, in particular on completing the strategic framework for public internal financial control and the application of managerial accountability in public administration. The new public administration strategy includes actions to improve good governance and control systems. Quality assurance and risk management have improved, thanks to continuous training. The State Audit Institution is improving its capacities to follow up audit recommendations and continues to work for a more open and transparent communication with the Parliament. On the other hand, efforts are needed to further strengthen the internal control and internal audit practices in public bodies and in state-owned companies, focusing on performance rather than on compliance.

Last year's recommendations remain valid:

- operationalise the centralised budget inspection function in the Ministry of Finance;
- steer and strengthen the application of managerial accountability in public administration;
- further align with the EU *acquis* on the fight against fraud to the Union's financial interests and further strengthen the coordination capacity of the National Anti-fraud Coordination Service.

#### Public internal financial control (PIFC)

Montenegro's **strategic framework for PIFC** is now partly in place. The new 2022-2026 public administration reform (PAR) strategy, adopted in December 2021, sets the improvement of managerial accountability as a key objective. However, the adoption of the new public finance management (PFM) reform programme is required to complete the strategic framework. The government adopts annual reports on the implementation of the PAR and PFM strategies, as well as annual consolidated reports on governance and internal control in the public sector (last adopted in July 2022).

The legislative and operational framework for **internal control and internal audit** is in place, covering also local government entities and state-owned enterprises. Additionally, in August 2021, the government adopted the Decree on the establishment of internal audit in the public sector, with the aim to harmonise the internal audit system with the Decree on the organisation and manner of work of the state administration. Despite the fact that the legal framework allows delegation of authority in the field of financial management and internal control in the public sector, this is not broadly applied in practice.

The legal and operational framework for **financial management** is largely in place and is in line with international standards. Further efforts are necessary to align programme-based budgeting and performance reporting with managerial accountability, as well as to upgrade risk management from operational to strategic level. A centralised budget inspection function in the Ministry of Finance still needs to be made operational.

**Internal audit** rules, standards and practices are in line with international standards. Full budget coverage is ensured, and the internal unit function is organised on a decentralised basis. 24 budget users at central government level have established a separate internal audit unit, with 59 internal auditors appointed. All 15 municipalities obliged to establish internal

audit units have done so, with 35 auditors appointed. Adequate staffing of the internal audit units at both central and local level needs to be addressed. So far, 79 of total 90 appointed auditors were certified internal auditors, while others are in the process to be certified. The existing internal audit training and certification system ensures a long-term professional development programme for certified internal auditors, recently focused on risk management and quality assurance. However, follow-up of the recommendations requires further strengthening.

**The Central Harmonisation Unit (CHU)** is responsible for developing and disseminating methodological guidance on PIFC, as well as for monitoring and reporting on implementation of internal financial control. Moreover, the CHU ensures quality review of financial management, internal control and internal audit activities. Its annual reports contain recommendations on how to improve the effectiveness of the internal control systems in the public sector.

#### External audit

The Constitution of Montenegro and the existing legal framework ensure the functional, operational and financial independence of the State Audit Institution (SAI), in line with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI). SAI has further improved its **institutional capacity** in terms of auditing staff. Most of its auditors are certified and have access to internal and international training, including on quality control, ethics and integrity, gender equality and gender budgeting. One of the five positions as member of its Senate (the five people in the highest position who decide by majority), however, remains vacant, blocking all decisions as a consequence.

On **quality of audit work**, SAI adopts and implements its annual audit plan based on risk assessment and on clearly defined criteria. Since June 2021, it carried out 35 audits.

In December 2021, SAI, as a member of the European Organisation of Supreme Audit Institutions (EUROSAI), became a member of the EUROSAI working group for environmental audit. In March 2022, SAI also became a member of the INTOSAI working group for information system audit.

As for the **impact of its audit work**, SAI improved its capacities to follow up audit recommendations, in line with the updated guidelines for developing, monitoring and control of audit recommendations. SAI submits annually a report on performed audits and activities to the Parliament, which includes an audit report on the government's final statement of accounts and the excerpts of individual audit reports. The government is obliged to respect and implement all SAI recommendations related to the final statement of accounts and individual audits and report to the Parliament on a quarterly basis. However, the Parliament still does not ensure a structured follow-up of SAI recommendations. All SAI reports are publicly accessible.

With regard to the **Audit Authority**, the institution increased its oversight capacity both in terms of human resources and number of performed audits (25 according to the latest report), with improvements on management, accountability and transparency in the use of EU funds. The head position, however, remains vacant, which has an impact on the operational capacities of this institution.

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

With regard to **EU *acquis* alignment**, amendments to the Criminal Code of Montenegro are under preparation, with the aim to further align the national legislation with the EU Directive on the fight against fraud to the Union's financial interests by means of criminal law. The

national **Anti-Fraud Coordination Service (AFCOS)** is improving its capacities to fight irregularities and fraud and to coordinate the AFCOS network for the protection of the EU financial interests. A new national anti-fraud strategy 2022-2025 is under preparation.

**Cooperation and exchange of information with the European Commission (OLAF)** during investigations continued. Six cases of irregularities were reported in 2021 and five in 2022. In May 2022, AFCOS supported OLAF during an on-the-spot control. However, Montenegro should increase its efforts in further developing a track record on cooperation in investigations and reporting of irregularities.

#### Protection of the Euro against counterfeiting

Montenegro's **legislation** on protection of Euro against counterfeiting is partially in place. The country has the necessary **structures** for technical analysis and classification of counterfeit money, including euro banknotes and coins.

As of November 2021, the Council of the **Central Bank of Montenegro (CBCG)** amended the Decision on authenticity and fitness checking and recirculation of euro banknotes and coins. The amended decision is fully harmonised with the relevant decision of the European Central Bank (ECB).

**Activities** to protect the euro against counterfeiting in line with harmonised EU and ECB regulations and standards continued. The CBCG monitored the cash handlers' work standards and tested cash handling devices. It also continued cooperation and exchange of information with the Police Directorate and the Higher Prosecutor's Office. Under the signed agreements, CBCG continued cooperating and exchanging information with the ECB, the European Commission and other international institutions on protecting the euro against counterfeiting.

### **3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION**

Good neighbourly relations and regional cooperation form an essential part of Montenegro's European integration process and contribute to stability, reconciliation and a climate conducive to addressing open bilateral issues and the legacies of the past.

Montenegro maintained its engagement in a number of regional initiatives, such as the Central European Free Trade Agreement (CEFTA), Energy Community, Transport Community, the South-East European Cooperation Process (SEECP) and the Regional Cooperation Council. Montenegro also actively participates in initiatives such as the Central European Initiative (CEI) and the Centre for Security Cooperation (RACVIAC).

Following the May 2022 Foreign Affairs Council, EU foreign ministers held, for the first time, an informal exchange of views with Western Balkans counterparts. The **EU and Western Balkans Leaders Meeting on 23 June 2022** reaffirmed the EU perspective of the partners in the region and gave impulse to intensify the cooperation and integration agenda. Particular focus was placed on the integration of the Western Balkans into EU measures to reduce the negative impact of the Russian aggression on Ukraine in terms of food and energy supplies and independence, as well as to support capacity building for cyber security and the social agenda, notably involving youth in the economy. The meeting was also an opportunity to discuss closer political cooperation, including foreign policy alignment of the Western Balkans with EU positions and restrictive measures.

At the **EU-Western Balkans summit in Brdo pri Kranju** in October 2021, the six Western Balkans leaders reaffirmed their commitment to inclusive regional cooperation, strengthening good neighbourly relations and investing more decisive efforts in establishing the Common Regional Market. The summit announced a range of concrete deliverables benefiting the Western Balkans, including the first set of actions under the Economic and Investment Plan;

the pledge to boost COVID-19 vaccination rates; the path towards lower roaming costs; an innovation agenda for the Western Balkans; green lanes to reduce border waiting times and Transport Community action plans for smart transport and sustainable connectivity.

**The Common Regional Market**, as agreed by the leaders of the Western Balkans at the 2020 Berlin process summit in Sofia, is critical in increasing the attractiveness and competitiveness of the region. It will help Montenegro to speed up the recovery from the aftermath of the pandemic, notably to attract investors looking for diversification of supply and shorter value chains and to maximise the benefits of the infrastructure investments under the Economic and Investment Plan. A number of important decisions to facilitate the movement of workers remain blocked. It is important that all parties play a constructive role in building the Common Regional Market and deliver on their joint commitments set out in the Common Regional Market's action plan.

In October 2021, Montenegro along with other Western Balkan partners endorsed the action plan for the **Green Agenda for the Western Balkans**, which mirrors the European Green Deal<sup>10</sup> in a proportionate and adapted manner in the Western Balkans. It provides for joint actions, which will contribute to the sustainable socio-economic development and the green recovery of the entire region in the post-pandemic period. Montenegro should implement this joint regional vision, with high level of ambition, putting sustainable development, resource efficiency, nature protection and climate action at the centre of all economic activities.

Albania, North Macedonia and Serbia seek to deepen regional co-operation in a number of areas, notably economic integration through the Open Balkan Initiative (OBI), implementing some elements of the Common Regional Market on which no formal agreement has been reached yet. Montenegro has not joined OBI. Four OBI summits have been held, Montenegro participated in the June and September summits as an observer.

Montenegro has continued to closely cooperate with Croatia, Bosnia and Herzegovina and Serbia under the **Sarajevo Declaration Process**, which aims to find sustainable solutions for refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. Within the framework of the **Regional Housing Programme (RHP)**, 417 housing units have been built, purchased or reconstructed by end of June 2022 in Montenegro, able to accommodate 1 250 persons. Significant challenges remain with regard to the economic and social integration and wellbeing for many families, required to ensure sustainability of return.

The unresolved fate of **missing persons** who disappeared in relation to the conflicts of the 1990s remains a key issue to be solved in the Western Balkans. Montenegro continued to actively participate in the Regional Missing Persons Group. There are still 51 persons missing by June 2022 as a result of the conflict.

**Montenegro generally maintains good bilateral relations** with other enlargement countries in the region and with neighbouring EU Member States, relations were marked by continued cooperation and several high level visits.

Relations with *Albania* remained good, with occasional high-level bilateral visits. Maritime delimitation between the two countries remains pending.

Relations with *Bosnia and Herzegovina* remained good. The agreed border demarcation is yet to be physically marked. Three joint border crossing points remain to be set up.

Relations with *Kosovo* remained good. Montenegro and Kosovo signed a Memorandum of Understanding on mutual recognition of insurance documents in cross-border traffic.

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<sup>10</sup> COM(2019) 640 final.

Relations with *North Macedonia* remained good. President of North Macedonia visited Montenegro in April 2022.

Relations with *Serbia* remain challenging but both sides signal more willingness to reset the relations and work toward addressing open issues. *Ad hoc* political spats between the two leaderships took place. The Prime Minister of Montenegro visited Belgrade in November 2021, June 2022 and September 2022.

Relations with *Türkiye* remained stable. Türkiye's President visited the country in August 2021. The Deputy Prime Minister and the Minister of Health visited Türkiye in October 2021.

Relations with *Croatia* remained good overall. The Prime Minister held a bilateral meeting with his Croatian counterpart on the margins of the CEI Summit in Budva in November 2021. President of Montenegro visited Croatia in December 2021. There have been no developments regarding the pending border demarcation between Montenegro and Croatia.

Relations with *Italy* remained good. Minister for Foreign Affairs visited Italy in December 2021 and had bilateral meetings with the Italian Senate and the Chamber of Communes.

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

##### **CLUSTER 2: INTERNAL MARKET**

This cluster covers chapters 1-free movement of goods, 2-freedom of movement for workers, 3-right of establishment and freedom to provide services, 4-free movement of capital, 5-company law, 7-intellectual property law, 8-competition policy, 9-financial services, and 28-consumer and health protection. All nine chapters are open, with closing benchmarks that remain to be fulfilled in each chapter. This cluster is key for Montenegro's preparations for the requirements of the EU's internal market and is of high relevance for early integration and the development of the Common Regional Market.

Progress was achieved in different areas e.g. on market surveillance, accreditation and standardisation; stepping up the Employment agency's capacity on the European network of employment services; continued alignment with the Services Directive; legislation on accounting; *acquis* alignment on intellectual property rights. State aid transparency and ordering recovery of unlawful State aid; the stability of the banking sector of Montenegro also advanced, as well as legislative alignment on consumer protection and adoption of implementation legislation on health protection.

In the coming period, Montenegro is invited to focus on the following areas: ensure sufficient resources to the market surveillance, standardization and accreditation bodies; strengthening *acquis* implementation for the coordination of social security systems; finalise to establish a fully operational Point of Single Contact for regulated professions; align with the *acquis* on capital movements and payments, including on the acquisition of property rights and monitor the phasing out of the investors' citizenship scheme; align with the Transparency Directive; adopt the new national intellectual property strategy; improve the track record in the area of competition and State aid; complete alignment of national legislation with the EU consumer protection and health protection *acquis*, including on substances of human origin; complete legislative alignment with and implementation of the Capital Requirements Directive and the Capital Requirements Regulation.

##### **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. Overall, **some progress** was made, with further alignment with the EU *acquis* and by taking steps towards the national standardisation body's full membership of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC). Other recommendations from last year remain largely valid though, and human resources and funding in the sector still remain inadequate.

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;
- continue to align with the EU *acquis*, as envisaged in the relevant action plan under this chapter, notably horizontal legislation on technical requirements, conformity assessment and market surveillance of products;
- ensure the implementation and enforcement of the Montenegrin legislation on chemicals management that is aligned with the EU *acquis*.

#### General principles

Montenegro continued to progress on its **alignment with the EU *acquis*** on the free movement of goods, as laid down in the relevant national action plan. In particular, the Law on standardisation and the Law on ratification of the convention on the establishment of an international organisation for legal metrology were adopted in December 2021. Market surveillance, standardisation and accreditation bodies still do not have adequate human and financial resources to implement the EU *acquis*.

#### Non-harmonised areas

Montenegro continued to implement its action plan for compliance with Articles 34-36 of the Treaty for the European Union (TFEU) on **prohibition of quantitative restrictions**.

#### Harmonised area: quality infrastructure

As concerns **standardisation**, the Institute for Standardisation of Montenegro (ISME) published 2 654 Montenegrin standards aligned with the EU standards. By the first quarter of 2022, CEN/CENELEC evaluated the ISME adoption rate at almost 88 % of European standards at the national level (86.17 % CEN standards and 92.01 % CENELEC standards). ISME became a full member of the International Organisation for Standardisation (ISO) in July 2021. Moreover, ISME submitted its application for full membership of CEN/CENELEC in December 2021, and CEN/CENELEC peer assessment is ongoing. However, the human resources situation of ISME has yet to be addressed (only 65 % of systematised job positions are filled).

On **metrology**, the main national legislation is aligned with relevant EU *acquis*, and three pieces of implementing legislation were adopted on certification criteria, technical and metrological conditions, and professional staff levels and procedures. During the reporting period, 45 conformity assessment bodies were accredited by the **Accreditation Body of Montenegro (ATCG)**, including 28 testing laboratories, 2 calibration laboratories, 2 medical examination laboratories, 8 inspection bodies, 3 bodies for products certification and 3 bodies for the certification of management systems. In November 2021, the European Cooperation for Accreditation (EA) performed a pre-evaluation of ATCG, identifying five non-

conformities, which were resolved by ATCG in April 2022. A full evaluation of ATCG prior to the signature of an EA Multilateral Agreement is foreseen to take place in November 2022.

**On market surveillance of products**, 2 137 inspections were carried out (1 754 inspections in proactive and 383 inspections in reactive surveillance) as compared to 2 211 in the previous reporting period. A total of 931 types of dangerous and non-compliant products were identified (59 041 items). Administrative measures have been imposed accordingly, as appropriate. The Administration for Inspection Affairs should be further reinforced.

#### Harmonised area: sectoral legislation

Regarding '**new and global approach**' product legislation, in order to ensure further alignment with the EU *acquis*, Montenegro amended implementing legislation in the construction sector (transitioning to Eurocodes), and in the areas of medical devices and personal protective equipment.

Similarly, on '**old approach product legislation**', implementing legislation on chemical classification (Globally Harmonised System of the UN), cosmetic products, transparency of measures regulating the prices of medicinal products and prohibited substances in cosmetic products was adopted, to improve the level of alignment to the relevant EU *acquis*.

#### **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. **Limited progress** was achieved in the reporting period on social security systems and in particular on last year's recommendation to step up the capacity of the Employment Agency.

In the coming year, Montenegro should in particular:

→ continue to work on strengthening structures to implement the EU *acquis* in the area and in particular as concerns the coordination of the social security systems.

On 30 July 2021, the government re-established the Chapter 2 Working Group. Its composition includes relevant social and civil society partners. In September 2021, the 2021-2025 strategy on migration and reintegration of returnees in Montenegro and its action plan for 2021-2022 were adopted.

**On access to the labour market**, there were no legislative developments. The Law on foreigners governs entry, stay and work of foreign citizens. Specific provisions for EU nationals are included in the law on foreigners and will apply as of the date of accession. For 2022, the government set the annual number of permits for temporary residence and work of foreigners to 20 454, almost identical to 2021. Procedures for handling foreigners' requests for temporary residence and seasonal employment permits through Montenegro's representations in countries of origin remain to be finalised.

In preparation to join **EURES** (European network of employment services) upon accession, efforts have been stepped up to improve the current institutional set-up and administrative and technical capacities of the Employment Agency of Montenegro. This includes IT hardware and software specifications, enabling the future participation to EURES and preparing a twinning project on capacity strengthening, to start in the second half of 2022.

**On the coordination of the social security systems**, the number of bilateral agreements in force remained at 25 without further developments. The bilateral agreement with Romania has yet to be signed. Amendments to those with Serbia and with Bosnia and Herzegovina

remain to be concluded. The Interdepartmental Working Group for the Coordination of Social Security Systems was set up in January 2022 with the aim to facilitate the cooperation in this area.

The **European Health Insurance Card** is recognised under the law on compulsory health insurance but will be introduced after accession. The number of agreements with EU Member States on the use of the card remained at five (Austria, Germany, Luxembourg, Slovakia, Slovenia). There were no further developments in recruitment of the coordination staff in the regional units of the Health Insurance Fund.

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

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

Montenegro remains **moderately prepared** in this area. Limited progress was made during the reporting period, on the establishment of a Point of Single Contact, further alignment with the Services Directive, and continuation of electronic registration as per last year's recommendations.

In the following period, Montenegro should in particular:

- establish a fully operational Point of Single Contact;
- continue inter-ministerial coordination and fully align with the EU Services Directive;
- complete alignment with the EU postal *acquis*, including the Regulation on cross-border parcel delivery services.

On the **right of establishment and freedom to provide cross-border services**, alignment of the implementing legislation with the EU Services Directive continued, albeit at a slower pace. Establishment of the Point of Single Contact for services (PSC) is supported through an EU technical assistance project. Upgrading the administrative capacity in the Services Department of the Ministry of Economic Development should be a priority. Electronic company registration was further pursued (*see also chapter 6 Company law*).

On **postal services**, the legislation is aligned with the EU Postal Services Directive. Postal services market remains fully open to competition. Montenegro should still ensure full alignment with the EU postal *acquis*, including with the Regulation on cross-border parcel delivery services. The number of postal operators increased by 4 to 30 operators. The implementation of the 2021-2022 action plan on the postal development strategy has progressed as planned.

On the **mutual recognition of professional qualifications**, Montenegro has a satisfying level of alignment with the EU *acquis*. A follow up on foreseen measures set out in the national plan to develop qualifications for regulated professions is still needed to ensure continuous alignment.

### **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 the strategic framework for the prevention of terrorism, money laundering and terrorism financing. The legal framework on payment systems was further aligned with the EU

*acquis*. Montenegro decided to extend the life of its investor citizenship scheme for an additional 12 months until December 2022, despite the previously announced decision to end the scheme in 2021, and despite the recommendations by the Commission to phase the scheme out as soon as possible.

Last year's recommendations remain largely valid. In the coming year, Montenegro should:

- continue aligning with the EU *acquis* on capital movements and payments, including on the acquisition of property rights;
- strengthen the anti-money laundering supervision of the non-financial sector, particularly in high risk areas such as the games of chance, by amending the law on games of chance and the law on the prevention of money laundering and terrorism financing;
- phase out of the investors' citizenship scheme, while continuing to monitor it as long as it runs, to prevent risks related to money laundering.

On **capital movements and payments**, since 2017 Montenegro has a regime of free movement of capital, no limitation on the transfer of property, and no foreign exchange or currency control. However, full alignment with the EU *acquis* has not been achieved. The adoption of a new insurance law remains pending. Montenegro has yet to implement its obligations under the Stabilisation and Association Agreement as regards amending the Law on ownership rights, removing preferential treatments and ensuring that EU citizens can buy real estate or farming land under the same conditions as Montenegro citizens.

As regards the **payment system**, amendments to the Law on payment system, aimed at aligning the law with the Payment Services Directive 2, have yet to be adopted. The Law on comparability of fees related to consumer payment accounts, payment accounts switching and access payment accounts with basic features, and the Law on interchange fees and separate business rules concerning payment cards were adopted in December 2021. The drafting of implementing legislation is in process.

Montenegro currently has three licensed payment institutions and 22 agents registered in payment institutions. In 2021, the Central Bank of Montenegro revoked from one electronic payment institution the authorisation for issuing e-money and for providing payment services. Seven inspections of operations of payment institutions were performed by the Central Bank to check the compliance in the area of payment operations. Misdemeanour proceedings were initiated against four banks.

On **anti-money laundering and terrorism financing**, the government adopted in December 2021 the strategy for the prevention and suppression of terrorism, money laundering and terrorism financing for 2022-2025. An implementing legislation to the Law on prevention and suppression of money laundering and terrorist financing was adopted on indicators for recognizing suspicious customers and transactions. The process of alignment of the legal framework on the prevention of money laundering and terrorism financing with the fifth EU Anti-Money Laundering Directive and with the recommendations of the Financial Action Task Force (FATF) is on-going. However, the Law on games of chance has yet to be amended in order to strengthen the supervision of the non-financial sector in this high-risk area. The Law on international restrictive measures, a crucial legislation in the context of international and EU sanctions, has yet to be aligned with EU standards.

In 2021, the Central Bank conducted six inspections of financial institutions to check their compliance with the anti-money laundering and anti-terrorist financing legal framework.

More targeted inspections were carried out in three banks, and five inspections of reporting entities were aimed at checking the fulfilment of measures previously imposed.

The Financial Intelligence Unit (FIU) is embedded in Ministry of Interior since the adoption of a new Law on internal affairs in June 2021. In 2021, the FIU conducted 130 controls of reporting entities, resulting in the issuance of 124 misdemeanour orders. The FIU received 299 suspicious transactions reports from taxpayers and 38 876 reports on suspicious cash transactions. In 2021, 12 orders of temporary suspension of transactions were issued for a total amount of EUR 3.6 million and USD 129 207. Some 38 orders of continuous monitoring of accounts against money laundering suspicions were issued. Some 62 notifications were sent by the FIU to law-enforcement authorities.

On 30 December 2021, Montenegro decided to extend its **investor citizenship programme** ('Special Investment Program of Special Importance for the Industry and Economic Interest of Montenegro') for an additional 12 months until December 2022, despite the previously announced decision to end the programme in 2021, and despite the recommendations by the Commission to phase the scheme out as soon as possible. In March 2022, the Ministry of Interior adopted stricter internal and external checks for all applications, which resulted in freezing the process of pending applications for the time being. Additional checks for applicants from Russia and Belarus were added in May 2022. However, new amendments to the decision adopted in June 2022 lowered the financial criteria for acquiring citizenship. A bank guarantee amounting to EUR 1 million is now required, instead of EUR 2.5 million previously. The amendments also allowed the beneficiaries of the programme to add children borne after the submission of the request to the list of family members granted citizenship. This scheme poses risks such as money laundering, tax evasion, terrorism financing, corruption and infiltration of organised crime and should be terminated. Past citizenship decisions should also be reviewed against the security risks they present in the context of Russia's unprovoked aggression against Ukraine. Between January 2019 and May 2022, 934 applications have been lodged (279 applicants and 655 family members); 409 applications have been accepted and 3 applications rejected; 522 applications are being evaluated (152 applicants and 370 family members). In total, 333 Montenegrin passports have been issued under the scheme.

## 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 a **good level of preparation** on company law. **Some progress** was made by adopting the Law on Accounting and on transparency. The recommendation to adopt the related rulebook on company financial statements and other recommendations from 2021 remain valid.

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

- adopt the rulebook on company financial statements;
- further align with the EU *acquis* on company law; including on encouragement of long-term shareholder engagement;
- complete alignment with the Transparency Directive, including the sanctioning regime.

On **company law**, no progress was made to ensure alignment with the EU *acquis* in this area. Further legislative alignment is necessary with the 2019 EU *acquis* on the use of digital tools,

cross-border operations and rules on the encouragement of long-term shareholder engagement. In this context, two working groups were established concerning the revision of the Law on business organisations and drafting a law on registration of business and other entities. The database of companies in the business register should be ready to interconnect with EU Member States' business registers in the future. There is a risk that the revision of the Corporate Governance Code - in the work programme of the Capital Market Authority (CMA) for 2022 - will not be completed in 2022. Alignment with the *acquis* on employee participation in cross-border mergers is still pending.

On **Transparency**, the CMA has established a central registry of regulated information, which is the official mechanism for collecting, storing, controlling and publishing regulated information. It has a high degree of automation and electronic communication between participants at the capital market. Legislative work is underway to achieve full *acquis* alignment on transparency, including on the sanctioning regime.

On **company reporting and statutory audit**, the law on accounting aimed at *acquis* alignment has been adopted in December 2021. However, the rulebook on company financial statements still needs to be adopted. Currently, all companies must comply with international financial reporting standards (IFRS / IFRS for SMEs), while reduced obligations exist for micro and small companies (balance sheet and profit and loss account only). The Law on auditing contains the essential elements in line with EU requirements, and Montenegro has a public audit oversight body (POB), independent of the profession. Statutory audits are performed based on international auditing standards (ISAs) and are mandatory for public-interest entities. Human resource capacities at the Department for Audit Oversight need strengthening, with a very limited number of quality inspections carried out.

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

*The EU has harmonised rules for the legal protection of intellectual property rights (IPR), as well as rules for the legal protection of copyright and related rights. Rules for the legal protection of IPR 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. Overall, **some progress** was made, with good progress on alignment with the EU *acquis* and preparation of a new national intellectual property strategy, and limited progress in track record on investigations, prosecutions and judicial follow-up. Last year's recommendations have, therefore, been only partially addressed and remain largely valid.

In the coming year, Montenegro should in particular:

- adopt and start implementing a new and comprehensive national intellectual property strategy 2023-2026;
- complete legislative alignment on copyright and neighbouring rights, industrial property rights and enforcement of intellectual property rights;
- improve its track record on investigations, prosecutions and judicial follow-up.

On **copyright and neighbouring rights**, alignment with the Collective Rights Management Directive was achieved through amendments to the law on copyright. The Parliament also adopted the Law on ratification of the Marrakesh Treaty. Further legislative amendments to complete alignment on copyright and neighbouring rights are pending adoption. Operating licences were issued to two collective management organisations (PAM CG and OFA).

Concerning **industrial property rights**, Parliament adopted the Law on protection of trade secret, the Law on ratification of the European Patent Convention and amended the Law on patents to implement the European Patent Convention. Further amendments to the Law on patents, aimed at aligning with the EU *acquis* on supplementary protection certificates and amendments to the Law on trademarks are pending adoption by the Parliament as is the Law on ratification of the Singapore Treaty on the law on trademarks. Preparations for accession to the European Patent Convention (EPC) and the European Patent Organisation (EPO) are in their final stages.

On **enforcement**, reports are regularly submitted to the European Commission on the implementation of intellectual property rights. The reporting format on customs enforcement of intellectual property rights remains to be fully aligned with Montenegro's future reporting obligations to the Commission. The track record on criminal investigation and prosecution remains to be improved in line with EU and international standards. *Ex-officio* powers should be reinforced in this respect. Sanctions and penalties imposed for intellectual property infringements appear to be too low to have a deterrent effect.

The COVID-19 pandemic reduced the scope of activities of the working group against infringements of intellectual property rights. In July 2021, a new Coordination Team for the implementation of intellectual property rights was created. A day of joint action took place in Kotor where compliance of economic entities with IPR was controlled and information material distributed. The action plan of the working group for 2022 was adopted. Due to numerous restructuring of entities in charge of IPR there is an evident shortfall of staff.

In the reporting period, in cooperation with the European Union Intellectual Property Office (EUIPO), Montenegro implemented several IT tools for the protection of IPR.

Preparations of Montenegro's new national intellectual property strategy 2023-2026 progressed and its adoption is planned by the end of 2022 together with an action plan. It will be important to ensure that the strategy will address the remaining identified shortcomings and IPR enforcement recommendations from the 2018 peer review report.

#### **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 effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.*

Montenegro is **moderately prepared** in this area. **Some progress** was made by further following up the Montenegro Airlines case and including aid to Air Montenegro in the 2020 report on State aid. Transparency increased with establishing and the use of State aid registers as well as timely publishing of decisions and opinions by the State aid authority. Last year's recommendation on non-notified State aid for Montenegro Airlines and others remain to be completed.

In the coming year Montenegro should in particular:

- conclude the Montenegro Airlines case and follow up on the establishment of the new national air carrier branded Air Montenegro, as well as close other ongoing investigations of non-notified State aid and recover the corresponding funds;
- in addition to ensuring transparency on all State aid decisions and operational independence of the State aid authority, proceed with legislative preparations to devise

the Agency for the Protection of Competition with power to impose fines;

→ further improve the track record in the areas of antitrust/mergers and State aid by providing appropriate staffing of the APC, building up administrative capacities of the Agency and misdemeanour courts, further promoting the use of leniency policy and carrying out more in-depth investigations and on-site inspections.

#### Antitrust and mergers

The **legislative framework** provides a good level of alignment with the EU *acquis* and the Stabilisation and Association Agreement (Articles 101 and 102 TFEU). Parliament adopted amendments to the Law on Protection of Competition in December 2021, primarily to align it with the Law on State Administration as concerns staff selection criteria and certain work planning arrangements.

On the **institutional framework**, the APC is responsible for implementing the legal framework. It is an operationally independent authority. The powers of the APC are broadly comparable to those of the European Commission in the area of antitrust and mergers. Decisions are taken by the Council of the APC, and can be appealed before the Administrative Court. Fines can still only be imposed by misdemeanour courts, not directly by the APC. A leniency policy for self-reporting cartel members is in place, but real implementation is lacking due to the still low level of fines imposed by misdemeanour courts.

On **enforcement capacity**, the APC's administrative and financial capacities remain to be strengthened. Only 11 out of the 18 foreseen posts in area of antitrust and mergers are occupied, similarly to the previous reporting period. A new President and new members of the APC Council were appointed in April 2022.

On **implementation**, in the area of prohibited agreements, the APC issued two decisions in the reporting period (three in total for the year 2021) and two new proceedings were initiated. The total number of ongoing misdemeanour proceedings is 8. However, the majority of proceedings processed in the reporting period faced either acquittal by the Misdemeanour Court, leading to an appeal of the APC before the High Misdemeanour Court, or administrative disputes initiated before the Administrative Court. The numbers and amounts of fines imposed by misdemeanour courts remained low, with only one case and fines of EUR 900. Due to the high number of appeals the completion of these cases is additionally protracted, preventing APC from building its track record and initiating new cases. In the reporting period, the Agency resolved two initiatives to investigate competition violations.

There were no decisions adopted in the area of abuse of a dominant position. In the area of concentrations, in 2021, 70 mergers were approved, compared to 50 in 2020, whereas between January-June 2022, the Agency issued a total of 32 decisions. One in-depth investigation of a merger and two dawn raids were reported. The leniency policy was not applied, similarly to the previous periods. The APC issued 14 opinions on legislation in the reporting period. To build its track record in the area of antitrust and mergers, the APC should increase the number of resolved cases. The APC needs to fully use its enforcement powers, carrying out more on-site inspections and further promoting the use of its leniency policy as a means to uncover cartels. Finally, the courts' capacity to handle complex competition cases and impose stricter fines remains to be significantly strengthened.

#### State aid

The **legislative framework** is largely in line with the EU *acquis* (Articles 107 and 108 TFEU) and the SAA. The 2018 Law on State aid control sets out the notion of aid as well as procedural State aid rules. The last Sixth Amendment of the Temporary Framework for State



aid measures to support the economy in the current COVID 19 pandemic was adopted in February 2022. Some secondary legislation was adopted in the reporting period.

As regards the **institutional framework**, the Agency for Protection of Competition (APC) is responsible for implementing the legal framework. The powers of the APC are broadly comparable to those of the European Commission in the area of State aid. Decisions are taken by the Council of the APC, and can be appealed before the Administrative Court.

The **enforcement capacity** of the APC Council remains to be strengthened. Only seven out of ten positions are filled in the Sector for State Aid Control, similarly to the previous year.

On **implementation**, in the reporting period the APC issued 30 decisions, 13 opinions, while 19 cases are in procedure - a significant increase compared to previous years. Concerning State aid to Montenegro Airlines, a third decision has been adopted in August 2022 ordering further recovery of illegal State aid. The Ministry of Capital Investments is still to adopt a plan for the recovery of incompatible State aid and to take actions to recover aid as per the instructions of APC. The latter confirms the need to further increase the enforcement powers of the APC.

The APC, in the field of State aid, has not yet published opinions or decisions on possible State aid in the energy sector, such as on coal subsidies. The APC should continue to monitor implementation of State aid rules in large projects undertaken in cooperation with third countries. Last year's recommendation to provide the APC with the means and information in this regard has been partially addressed, since the Ministry of Capital Investments and other competent authorities provided only partial information.

Montenegro made progress towards ensuring transparency on State aid decisions, with the decisions and opinions being timely published on the Agency's website. Additionally, the general register of State aid cases was created in the reporting period, which can further contribute to the transparency along with the two specialised registers (COVID and *de minimis*). Each major grantor of aid appointed responsible persons to enter information in the registers. The APC's database is increasing. All concerned institutions should further contribute to strengthening the position of the APC and its Council thus ensuring an independent and functioning system of State aid control, which is fundamental for Montenegro's progress on its path into the European Union. The APC should continue to advocate for further strengthening awareness of State aid rules among aid grantors at both central and local levels.

#### Liberalisation

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

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

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

Montenegro is **moderately prepared** in the area of financial services. Overall, **some progress** was achieved in the reporting period, with good progress in the area of bank and financial conglomerates, some progress on insurance and no progress on capital markets. Last year's recommendations were met to a substantial degree in the banking area.

In the coming year, Montenegro should:

- Complete legislative alignment with and implementation of the capital requirements and bank recovery and resolution legislation,
- Advance work on the drafts of the Law on Insurance, Law on investment funds, Law on alternative investment funds and Law on pension funds, aligned with EU legislation.

The legislation is partially aligned with the EU *acquis* on **banks and financial conglomerates**. Laws on credit institutions and on resolution of credit institutions and most of their implementing legislation (aimed at alignment with Basel III standards) have applied since January 2022, bringing the legal framework closer to the current EU rules. Work is still ongoing on adopting and implementing some of the related regulatory acts and documents that were produced by the European Banking Authority (EBA) and the Single Resolution Board (SRB). Work is also in progress on further changes to the banking legislation, aimed at alignment with the latest EU rules on the resolution of credit institutions.

The Central Bank of Montenegro (CBM), in cooperation with the EBA, initiated the procedure for assessing the equivalence of Montenegro's regulatory and supervisory framework for credit institutions with EU rules. The CBM also started negotiating a cooperation agreement with the SRB on the exchange of information and cooperation in the area of resolution planning and implementation for banks and financial conglomerates operating on a cross-border basis.

The CBM adopted, since the outbreak of the COVID-19 crisis, eleven packages of temporary measures to mitigate the impact of the pandemic on the banking sector and improve the country's financial stability. The independent review of the asset quality in all banks (AQR), which started in February 2020, was completed in September 2021. The results of the AQR exercise confirmed the stability of the banking sector of Montenegro, a satisfactory asset quality and capital adequacy of the banking system. The solvency ratio of the banking sector, adjusted after the AQR was finalised, amounted to 16.2%, substantially above the statutory minimum of 10%.

On **insurance and occupational pensions**, the Insurance Supervision Agency (ISA) continued working on the new Law on insurance, which should ensure further alignment with the main EU *acquis*, the Solvency II Directive and the Insurance Distribution Directive. In parallel, adjustments to the current Law on insurance, expanding the powers of ISA in preparation for its future role, entered into force. Changes to the Law on compulsory traffic insurance, allowing for the alignment with the Motor Vehicles Directive, entered into force in January 2022.

On **financial market infrastructure, securities markets and investment services**, legal alignment with the EU *acquis* on investment funds (UCITS Directive), alternative investment funds (AIFMD Directive) and pension funds (IORP Directive) remains pending.

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

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

*standards for upholding patients' rights in cross-border healthcare and tackling serious cross-border health threats including communicable diseases.*

Montenegro is **moderately prepared** on consumer and health protection. Overall, **limited progress** was made on last year's recommendations, notably regarding alignment to the EU *acquis* in the field of health protection, whereas some progress was made in the area of consumer protection and improving the capacity for its implementation. Therefore, recommendations from last year remain broadly valid.

In the coming year, Montenegro should:

- complete the alignment of national legislation with the EU consumer protection *acquis*, as well as the alignment of national legislation with the EU health protection *acquis* on substances of human origin, tobacco control and patients' rights in cross-border health care;
- reinforce administrative capacities to ensure the full implementation of the EU *acquis* under this chapter;
- adopt a new strategy for the development of the healthcare system in Montenegro.

#### Consumer protection

Regarding the **legislative framework for consumer protection**, the Law on consumer protection was amended in December 2021 in order to ensure alignment with the EU *acquis*, but it still needs to be further aligned with the latest EU consumer protection legislation. The law enabled a new Consumer Protection Council to be established, the main role of which is continuous enforcement and implementation of consumer protection rules. A national consumer protection programme 2022-2024 was also adopted. Legislation on alternative dispute resolutions and consumer credits is aligned with the EU *acquis*, except in the area of consumer credits related to residential immovable property. Full alignment of legislation on market surveillance of products has yet to be completed. Between December 2021 and March 2022, Montenegrin authorities competent for consumer protection carried out a joint extensive action to control online trade market, including systemic checks ("sweeps"), equivalent to those implemented at the EU level. Following the control of websites of 62 business entities engaged in the sale of goods in sectors such as clothing, household goods and electrical appliances, shortcomings were identified and addressed, resulting in higher share of websites that are in line with the rules of distance selling of goods and services.

The central **information system** for consumer protection was updated to facilitate consumer complaints in autumn 2021. **Administrative capacities** of the Administration for Inspection Affairs were strengthened by hiring 11 inspectors for consumer protection. 31 629 inspections were performed in the field of consumer protection, identifying 4 021 irregularities leading to administrative and punitive measures.

On **product safety**, Montenegro's legal basis is designed to be aligned with the EU *acquis*. 2 253 inspections were conducted, including 1 822 inspections in the context of proactive surveillance and 247 inspections in reactive surveillance, identifying 944 dangerous products (31 320 items). Accordingly, administrative measures were imposed, including withdrawal of products from the market as well as permanent or temporary circulation ban, destruction and return to the producer/distributor. Withdrawal of products from the market (permanent circulation ban) for dangerous and non-compliant products was imposed on 315 product types, in the amount of 33 845 pieces.

#### Public health

On public health, national legislation on healthcare remains partly aligned with the EU *acquis*. In 2021, the health budget (6.811 % of GDP) decreased slightly, compared with 2020. Montenegro's integrated health information system was used at the primary, secondary and tertiary care level, following the completion of the information system in the Clinical Centre of Montenegro (CCM). Connecting the information systems of CCM and the Institute for Public Health (IPH) has not been completed. Currently there is no strategy in place for the development of the health sector in general.

Despite some actions by relevant institutions/bodies, the issue of **anti-microbial resistance** is still insufficiently addressed. In view of the application of the EU guidelines for decreasing the use of antibiotics, Montenegro adopted a Programme on bacterial resistance to antibiotics control with the related action plan 2022-2024 in June 2022 and has a national surveillance system in place for antimicrobial resistance in humans. Generally, antibiotics and other medicines were prescribed less in 2021 than in previous years.

On **tobacco control**, the national legislation on smoking in public places and the sale of tobacco products to minors is still not sufficiently enforced, even though there was some limited reinforcement of the capacities of relevant inspectors.

On **alcohol related harm reduction**, the government adopted a programme and an action plan for the prevention of harmful use of alcohol and disorders caused by alcohol consumption for the period 2022-2024. On **drug abuse prevention and harm reduction**, efforts focused on treatment and prevention actions are organised by the civil society organisations. Opioid substitution treatment is available at primary health care centres. However, the rehabilitation and social integration of drug addicts was problematic, as they needed to participate themselves in covering the costs of the rehabilitation programmes provided by a state centre. Adequate support to minor drug users with mental diseases is not available, and there is no specific healthcare entity for this group of drug users.

The 2021-2023 action plan for the implementation of the strategy for the improvement of **mental health** (2019-2023) was adopted in November 2021.

On **blood, tissues, cells and organs**, the national blood transfusion institute adopted its criteria for the selection of blood donors after immunisation with COVID-19 vaccine, which are harmonised with the recommendations of the European Centre for Disease Prevention and Control (ECDC). In the field of **substances of human origin**, Montenegro has adopted implementing legislation in order to further align with the relevant EU *acquis*.

National legislation on **patients' rights in cross-border healthcare** is partly aligned with the EU *acquis*. In the field of **serious cross-border health threats and communicable diseases**, the Institute for Public Health continued COVID-19 related activities. The institute, the Ministry of Health and other health institutions were all active in communicating information to the citizens on prevention measures and relevance of immunisation. Due to the epidemiological situation in the last quarter of 2021, Montenegro banned entry of citizens to malls and hospitality venues without COVID certificates, which contributed to an increased vaccination rate. Some of the restrictive measures were lifted in spring 2022 but others were maintained such as those related to wearing a mask. By the end of August 2022, almost 46% of the population received two doses of the COVID-19 vaccination, and over 16% of the population received three doses. Montenegro aligned itself with the requirements of the EU COVID-19 digital certificates and started issuing compliant certificates for its citizens on 30 December 2021. Montenegro is part of **viral respiratory disease surveillance networks**

managed by ECDC and reports to it on several communicable diseases, but it should improve the timeliness and completeness of the reported data.

The government adopted the programme for fighting **HIV/AIDS** for the period 2021-2023 and the action plan for 2021-2022. The prevention measures in the programme are primarily related to the promotion of protective behaviour among key population groups. The action plan of the programme for the control and prevention of **non-communicable diseases** in Montenegro for 2021 was adopted in July 2021.

**On health inequalities**, access to healthcare services remains available for all vulnerable groups, with the exception of persons without regulated legal status, including Roma and Egyptians, as well as population living in remote rural areas. According to available information, the health care of children with disabilities is poor. Due to the lack of staff in health care institutions, they have to wait for specialist examinations (specifically for child neuropsychiatrists) for several months. Children with developmental disorders cannot get adequate treatment on time.

### **CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH**

This cluster covers chapters 10-digital transformation and media, 16-taxation, 17-economic and monetary policy, 19-social policy and employment, 20-industrial policy, 25-science and research, 26-education and culture, and 29-customs. All eight chapters are open, with closing benchmarks set in all but two, namely chapter 25-science and research and 26-education and culture – both of which are provisionally closed. Closing benchmarks remain to be fulfilled in each of the other six chapters. This cluster and the reforms concerned have significant links to Montenegro's Economic Reform Programme.

Some progress was achieved in different areas e.g. alignment with the Broadband Cost Reduction Directive, tax legislation as well as administrative cooperation and mutual assistance; as well as on further implementation of the revised industrial policy. There was slow progress on preparations for accession to the Convention on common transit procedure, on implementing actions foreseen in the trade facilitation strategy 2018~2022 and implementation of the action plan for alignment with the EU *acquis* in the area of economic and monetary policies.

In the coming period, Montenegro is invited to step up legislative alignment in the electronic communications, information technologies and audiovisual media sectors and ensure the media sector's independence; make further progress on removing VAT and other exemptions that are not aligned to the EU *acquis*; alignment with the EU monetary and economic policies, including on cooperation and coordination amongst relevant public authorities; monitor the implementation labour law, in addition to focusing on the employment activation measures in addition to the further development of the Youth Guarantee; continuing efforts on improving safety at work particularly regarding labour inspection; continue implementing the revised industrial policy and strengthen inter-ministerial cooperation; continue to support financially research and innovation especially regarding smart specialisation and the Green and Digital Agendas; build on the quality and accessibility of education and training and plan for further education reform; and establish an EU-compatible, computerised common transit system.

#### **Chapter 10: Digital transformation and media**

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

Montenegro remains **moderately prepared** in the area of digital transformation and media. There was **limited progress**, during the reporting period mainly through the alignment with the Broadband Cost Reduction Directive and by the adoption of strategic documents on information society. No progress was made on last year's recommendations, which thus remain valid.

In the coming year, Montenegro should in particular:

- progress in aligning with the EU *acquis* on electronic communications and information technologies and complete legislative alignment on audio-visual media, ensuring the operational independence of the media regulators and the public service broadcaster;
- progress in granting the Agency for Electronic Media (AEM) powers to impose a complete set of measures, including warnings, fines, suspensions and revocation of licenses ensuring proportionality and effectiveness;
- establish a track record demonstrating the administrative capacity to enforce the EU *acquis* for electronic communications, information society services and in particular audio-visual media services, including as regards regulatory independence.

In the reporting period, the government adopted the roadmap for the fulfilment of the closing benchmarks for Chapter 10.

The Ministry of Economic Development and Tourism is in charge of **electronic communications and information technologies**. In December 2021, the Parliament adopted the law on the use of physical infrastructure for the installation of high-speed electronic communications, thus aligning with the EU broadband cost reduction directive. Broadband infrastructure development progressed with support by the EU. According to Montenegrin statistical information, fixed broadband connection is used by 97% of households and 69% of those have data transfer rates of at least 30 Mb/s. Montenegro has created conditions for 5G connections. At the start of 2022, a working group was formed to draft the 5G strategy for 2023–2027. The roadmap for the deployment of 5G mobile networks was adopted in December 2021, while the adoption of the national 5G roll-out and allocation of the commercial 5G spectrum are expected in the course of 2022. Radio-frequencies in the 900 MHz, 1800 MHz, 2 GHz and 2.6 GHz bands were successfully auctioned. The Regional Roaming Agreement was fully implemented.

The 112 European emergency number is functioning with an e-call service successfully tested and in use.

**Digital transformation** is under the responsibility of the Ministry of Public Administration. In December 2021, the government adopted the Digital Transformation Strategy 2022-2026, the Strategy for Digitalisation of the Education System 2022-2026, and the Law on Electronic Documents. Montenegro still needs to complete its alignment with the EU *acquis* on electronic communications and information technologies, such as the European Electronics Communication Code, the Network and Information Security Directive, the Toolbox for 5G Cybersecurity, the Open Data Directive and the e-Privacy Directive. The number of e-government services is 410, from 50 institutions. During the first quarter of 2022, the government offered e-payment opportunities and electronic identification (digital ID cards) for a selected number of services. Moreover, the government improved the user experience and the scope of the open data portal [data.gov.me](http://data.gov.me), which currently offers 197 datasets. A new, improved government web portal ([gov.me](http://gov.me)) was developed and introduced.

The cyber security strategy 2022-2026, with an action plan, was adopted in December 2021. The government also decided to strengthen the national capacities for cyber security, including the establishment of a cybersecurity agency.

The Ministry of Culture and Media is the legislative body on **audio-visual policy**. The regulatory Agency for Electronic Media (AEM) continued to exercise its mandate in a professional manner. In January 2022, the AEM suspended the broadcasting of several shows of the Belgrade-based Happy TV in Montenegro for a period of six months, for inciting hatred, intolerance and discrimination against ethnic Montenegrins. The overlap in jurisdiction concerning media oversight during elections remained. The Agency still lacks the authority and measures to effectively monitor and penalise broadcasters and legal provisions and its operational capacity remains to be strengthened.

The law on audio-visual media services, the amendments to the law on media and the law on the national public broadcaster remain to be adopted. Montenegro should ensure alignment to the 2018 revision of the EU Directive on the audio-visual media services, recommendations and legal opinions of Council of Europe and OSCE. The consistency of the three laws needs to be ensured and the legislative process conducted in an inclusive and transparent manner, in dialogue with all relevant stakeholders. Financial support to media through the newly established Media Pluralism and Diversity Fund started. The Ministry of Public Administration, Digital Society, and Media continued working on the comprehensive Media Strategy of Montenegro 2022-2026, which includes fight against disinformation and promotion of media literacy.

#### 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 notably on improving tax legislation as well as administrative cooperation and mutual assistance. The recommendations related to TADAT (tax administration diagnostic assessment tool) analysis, value-added tax (VAT) exemptions and building capacities of the Revenue and Customs Administration from 2021 remain valid.

In the coming year, Montenegro should in particular:

- continue to implement the action plan addressing the issues highlighted by the TADAT analysis;
- further remove VAT and other tax exemptions that are not aligned to the EU *acquis*;
- adopt a strategic plan in order to further develop capacities of the Revenue and Customs Administration and to prevent the outflow of qualified and trained staff.

In the area of **indirect taxation**, in December 2021, the Parliament adopted amendments to the Law on value added tax, which stipulate that VAT is calculated and paid at a reduced rate of 7% of the transactions for services for the preparation and serving of food, drinks and beverages, except alcoholic beverages, carbonated beverages with added sugar and coffee in facilities providing hospitality services. In May 2022, the law was further amended, introducing gradual reduction of VAT rates on trade and imports of flour and sunflower oil, salt and pellets. At the same time, the Law on excise duties was amended reducing the excise duty for unleaded petrol and gas oils and increasing it for smokeless tobacco products and introducing disposable plastic products in the excise system. Montenegro also further aligned

its indirect tax legislation to the EU *acquis* by requiring leisure boats to pay VAT and excise when refuelling.

In December 2021, the Parliament adopted an important set of laws on **direct taxation**. Amendments to the Law on personal income tax introduced a dual system of income taxation, strengthening tax discipline and providing incentives to attract certain categories of taxpayers. Dual system implies proportional and progressive rates of personal income tax, depending on the source of income. The new legal solutions also prescribe exemption from personal income tax on specific cases. In parallel, amendments to the Law on contributions for compulsory social insurance abolished health contributions borne by the employer and the employee, to ensure a reduction in the tax burden on labour. Amendments to the Law on unified registration and reporting system on calculation and collection of taxes and contributions brought legal technical harmonisation with the Law on contributions for compulsory social insurance, i.e. deletion of the conceptual category related to the health insurance. The Law on rescheduling of tax claims provided legal and natural persons facing liquidity problems with an incentive to resolve their situation regarding the payment of tax liabilities, (i.e. to reschedule their tax debt). Finally, amendments to the Law on corporate profit tax aligned national legislation with the EU *acquis* on the common system of taxation applicable in the case of parent companies and subsidiaries of different EU Member States as well as on the common system of taxation applicable to interest and royalty payments between associated companies of different Member States. In April 2022, the Law on real estate tax was amended with regard to market values of real estates.

Regarding **administrative cooperation and mutual assistance**, in December 2021, amendments to the Law on tax administration were adopted, aligning it with the relevant EU *acquis*. This provides the legal basis for mandatory automatic exchange of tax information between the Revenue and Customs Administration of Montenegro and the competent authorities of the EU Member States.

A self-assessment of the Revenue and Customs Administration of Montenegro is ongoing to test the country's readiness to start the envisaged **automatic exchange of financial account information** in the OECD framework on base erosion and profit shifting (BEPS), scheduled for September 2023. Montenegro has completed double taxation agreements with 25 EU Member States.

On **operational capacity and computerisation**, progress was registered in terms of introduction of the Integrated Information System (IRMS), as well as the modernisation of business processes in accordance with current trends in the digitalisation of services. The application of the real-time online fiscalisation system started on 1 June 2021 for all taxpayers.

No progress was registered as to the technical capacity and infrastructure needed for the **application of the EU IT systems**, such as Excise Movement Control System (EMCS) and VAT Information Exchange System (VIES). The Revenue and Customs Administration still needs to adopt a **human resources** strategy as well as personnel and training plans.

#### **Chapter 17: Economic and monetary policy**

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

Montenegro is moderately prepared in the area of economic and monetary policy. Limited progress was achieved on meeting last year's recommendations, mainly on implementation of the action plan for alignment with the EU *acquis*. The 2022-2024



Economic Reform Programme (ERP) was adopted on time. The design quality of the ERP economic and fiscal policies as well as the reform measures improved. However, the level of implementation of some reforms remains weak. Moreover, the chronic lack of resources to handle government finance statistics at the Montenegrin Statistical Office (Monstat) continues to hamper progress in this chapter. Last year's recommendations remain valid.

In the coming year, Montenegro should:

- continue to implement the revised action plan for alignment with the EU *acquis* under this chapter;
- ensure adequate capacities of, and cooperation and coordination of tasks between, the Ministry of Finance, the Central Bank of Montenegro and Monstat on the production of government finance statistics and fiscal notifications aligned with ESA 2010 methodology.

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. Montenegro's use of the euro, which was decided by the authorities under exceptional circumstances, is fully distinct from membership of the euro area.

In December 2021, the government adopted a roadmap to fulfil conditions for the provisional closure of negotiations in chapter 17. The roadmap also identifies horizontal links between chapter 17 and other chapters (namely chapters 4, 9, 18 and 32) and clusters, in line with the revised enlargement methodology.

The Action plan for alignment with the EU *acquis* under this chapter was revised at the beginning of 2022. The Central Bank of Montenegro continued working on amendments to the Law on the Central Bank, with the technical assistance of the International Monetary Fund. Amendments are foreseen to be adopted in the last quarter of 2022.

On **economic policy**, there was some further alignment with the Council Directive 2011/85/EU on requirements for budgetary frameworks of the Member States. New elements of programme budgeting and medium-term planning were introduced with the adoption of 2021 budget. However, performance indicators are still being developed. Delays in the introduction of accrual accounting and production of government finance statistics based on the European System of Accounts (ESA 2010) standards remain a key obstacle in this chapter. There was no progress with coverage of Montenegro's fiscal notifications. Moreover, Montenegro failed to submit the excessive deficit procedures tables in April 2022 as requested by Eurostat. Coordination between the Ministry of Finance, the Central Bank of Montenegro and Monstat needs to significantly improve for the production of necessary statistics.

Amendments to the Law on budget and fiscal responsibility that would create conditions for the establishment of an independent fiscal council, to strengthen the oversight of the fiscal policy in the country, are expected to be adopted along with the 2023 budget.

The government adopted and submitted its 2022-2024 **Economic Reform Programme (ERP)** on 31 January 2022. The economic consequences of Russia's war against Ukraine and surging inflation may render the macro-fiscal scenarios, presented in the document, partially obsolete. However, medium-term fiscal and structural reform challenges and the programme's priorities remain valid. Overall, the quality and design of economic policy measures has improved, but efforts need to continue in order to avoid delays with the implementation of the policy guidance jointly agreed with the EU.

## Chapter 19: Social Policy and employment

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

Montenegro has **some level of preparation** on social policy and employment. **Some progress** was made during the reporting period, including the amendment to the Child protection law and the reduction of the tax wedge.

While some steps have been made, the recommendations from last year's report remain valid. In the coming year, Montenegro should in particular:

- reform and strengthen the Employment Agency in order to allow it to play its role as a modern public employment service, designing and implementing quality employment activation measures, ensuring these are targeted, including at young people, women, persons with disabilities, vulnerable persons and minorities, including Roma. Continue preparations focused on the establishment and implementation of the Youth Guarantee;
- monitor implementation of the revised labour law and reinforce staffing in and the institutional structure of the labour inspectorate, also ensuring that issues; regarding women, persons with disabilities, minorities including Roma and vulnerable people, are more robustly addressed. Improve health and safety at work issues by setting up the occupational health and safety fund;
- continue the reform of the social protection system based on the Roadmap of Social Protection Reform. Adopt and implement the strategy on de-institutionalisation.

In December 2021 the Parliament adopted amendments to the **labour law**, as part of the comprehensive reform package 'Europe Now', it is noted that some of these amendments foresaw an increase by 80% of the minimum wage. Amendments to the Law on pensions and Disability Insurance, as well as the Law on Protection of Employed Citizens of Montenegro Posted to Work Abroad were adopted in December 2021. Although in July 2021, the Government re-established the Chapter 19 Working Group that includes relevant social and civil society partners the group is not yet functioning. Following the formation of the new Government in April 2022, the competences shared between the Ministry of Finance and Social Welfare and Ministry of Economic Development were reintegrated back into the reconstituted Ministry of Labour and Social Welfare. In addition, more should be done to have in place legal protections for women employed under fixed-term employment contracts.

Concerning **health and safety at work**, in September 2021, the Ministry of Economic Development established a multi-sector Working Group, tasked with the development of the National Strategy for Occupational Safety and Health (2022-2027) and the Action Plan for implementation for 2022. The occupational safety and health fund, foreseen under the previous sector strategies (2010-2014 and 2016-2020), has not however yet been established. From January 2021 to December 2021, it was reported that there were four fatal (the same amount than the previous year) and 21 serious accidents at work (four more than in 2020). Four collective accidents were reported.

On **social dialogue**, the impact of the relevant provisions in the labour law are not yet visible. The tripartite Social Council is functioning, but steps still need to be taken to ensure it is fully embedded into national policy-making. During 2020 three sessions had taken place in the period prior to July. In addition, an extension of the validity of the general collective bargaining agreement was made until the end of 2022 as the new agreement has still not been adopted.

**On employment policy**, in December 2021 the Government adopted the National Strategy for Employment for the period 2021-2025 and the 2022 Action Plan for Employment. Monitoring of the implementation of the National strategy for Employment will remain a challenge, as it was with the previous Strategy as a result of the scarcity of data. Overall, the effectiveness and coverage of active labour market policies remains insufficient. The Employment Agency requires substantial reform and strengthening, as amongst other things it is not yet ready to take on the challenge of delivering the Youth Guarantee and promoting up and reskilling actions. Additionally, the discrepancy of the ratio of workers in the Agency between branch offices and at central level has not yet been addressed. A partial recovery on the labour market in Q3 of 2021 came on the back of the economic rebound. The rate of long-term unemployed over one year decreased from 65.6% to 63.7% between Q1 and Q4 of 2021. Overall unemployment was recorded at 16.8% compared to 18.3% in the previous year. Differences across regions remain, with the unemployment rate being low at 7.4 % in the coastal region, 11.3% in the central region and 30.8% in the north according to data from Q4 2021. The most vulnerable groups on the labour market remain women, youth, Roma, persons with disabilities and low skilled workers. The share of young people (15-29) not in education, employment or training (NEET) had decreased by only 0.1% (from 26.6% to 26.5%) between Q4 2020 and Q4 2021 according to an International Labour Organisation report. To tackle this in December 2021 the Government adopted a programme for youth employment in 2022, as a precursor to the Youth Guarantee scheme. Regarding the latter, the institutional focal point for the introduction of the YG scheme and the Working Group that should manage its setup has been appointed. While reinforced efforts are still required so to tackle issues related to the informal economy during the year Montenegro took policy steps which led to a reduction in the tax wedge on labour. Regarding labour inspection, an appropriate legislative framework with sufficient resources and a modernised planning of inspection activities with improved coordination among the different inspection bodies, addressing issues such as gender which impact disproportionately on women, is not yet in place. In the reporting period, no progress was noted regarding the efficiency of the linkage between the database of the Employment Agency and the Tax Administration. Employment and social services are still insufficiently coordinated. The digitalisation process of the Employment Agency has not been finalised and its coordination with social welfare centres remains an issue to be addressed.

As regards the activities focused preparing for the **European Social Fund (ESF)**, the implementation of the Sector Operational Programme for human resources development (2015-2017) moved towards its final stage, as planned. *(See also Chapter 22 - Regional policy and coordination of structural instruments).*

The **social protection and inclusion** sector continues to face serious human resource and capacity limitations. While the review of the social protection system was finalised in April 2021 and a Roadmap of Reforms was published in July 2021, insufficient steps have been taken to move reform forward. In December 2021, the Child Protection Law was amended, expanding child allowance to children up to 18 years old. In parallel, the Law on Compensation of former beneficiaries of benefits based on the birth of three or more children was adopted. In the reporting period, centres for social work continued to be under-staffed. Furthermore, the performance of the centres were affected by changes in management and expansion of responsibilities. Social welfare centres still do not have the capacities to help the Ministry to implement the transition from institutional service provision to community-based care. The Institute of Social and Child Protection still requires strengthening in terms of resources. Social services provided at local level continue to be underfunded. During the reporting period, the implementation of the integrated Social Welfare Information System

(SWIS) proceeded, and it is reported as being operational in all centres for social work and social and child protection institutions. According to the Survey of Income and Living Conditions (SILC - data for December 2021), the national "at-risk-of-poverty" (AROP) rate was 22.6 %, whereas for children it stood at 32.6 %. Negatively the country does not have a focused poverty strategy. On **de-institutionalisation** of children in care, no progress has been registered in the transition to community and family-based services: professional foster care has not been introduced and the adoption of the Strategy on de-institutionalisation is still pending (expected Q4, 2022). The Council for the Care of Persons with Disabilities does not yet have its members appointed.

On **non-discrimination** in employment and social policy, the draft Law on Professional Rehabilitation and Employment of Persons with Disabilities and the draft Law on Unified Disability Determination system are being revised but is still pending adoption. As regards services provided by civil society organisations, the number of service provision licences for NGOs did increase thanks to some review of administrative constraints. However, consultation with civil society in the context of the drafting of the new Social Protection Strategy has still been insufficient. So far, no concrete results of the Roma inclusion strategy for 2021-2025 in line with the EU Roma strategic framework are visible. Progress on the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) strategy (2019-2023) is unclear. More generally, civil society organisations still need to be better integrated in the decision-making processes.

On **equality between women and men in employment and social policy**, according to MONSTAT Labour Force Survey, in the course of 2021, the gender gap between male and female employment rates (population aged 20-64) persisted with a difference of 8.6 % percentage points in Q4 2021, as compared to 13.6 % in Q4 2020. Moreover, the gender gap in employment and pay, workplace sexual harassment, affordable childcare, unpaid work and tax benefit systems are all issues having negative impact on equality between women and men, and they still require action. Due to lack of data, it is not possible to state how many cases of sexual harassment have come to trial. In parallel, more can be done in terms of raising public awareness on this issue, including via the Ombudsperson office and through actively supporting women's NGOs. No progress has been made regarding legislative and non-legislative measures focused on work-life balance.

## **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/has a good level of preparation** on enterprise and industrial policy. **Some progress** was made in implementing the enterprise and industrial policy, as per 2021 recommendation. Inter and intra-ministerial cooperation on both technical and political levels should be further developed to ensure consistency of different national strategies and programmes, including industrial policy, smart specialisation and the Economic Reform Programme. Previous recommendations remain broadly valid.

In the coming year, Montenegro should:

- continue the implementation of its revised industrial policy, in cooperation with relevant stakeholders;
- accelerate legal alignment with the EU Late Payment Directive by adopting amendments to the law on deadlines for settlement of monetary obligations;

→ ensure continuous coordination of industrial policy with other key national strategies.

**On enterprise and industrial policy principles,** a new strategy for the development of women's entrepreneurship 2021-2024 was adopted in October 2021, together with the accompanying action plan for 2021-2022. Work advanced on establishing the Credit Guarantee Fund in 2022, a support mechanism facilitating access to credit for MSMEs through the banking sector. The reforms of the corporate governance in the state-owned enterprises need to be prioritised, in line with the Economic Reform Programme commitments. Alignment with the EU *acquis* on combating late payments, through amendments to the law on deadlines for settlement of monetary obligations, is still pending.

**On enterprise and industrial policy instruments,** the implementation of different programmes for the development of entrepreneurship and private sector continued under the overarching Programme for Improving the Competitiveness of the Economy. The financial allocations were reduced in 2021 because of the phase-out of temporary COVID-19 support and amounted to EUR 3 million overall. Businesses were consulted prior to the adoption of the Programme, for the first time, and the whole application process was digitalised. A single on-line portal for SME support (Single Access Point; [www.biznis.gov.me](http://www.biznis.gov.me)) was launched in June 2022, which will provide all necessary information and contacts regarding advice and assistance for businesses. As of May 2022, 410 public services were available on the e-government Portal, of which 99 were interactive and 311 informational.

In 2021, the Investment and Development Fund of Montenegro (IDF) provided financing worth EUR 210.3 million to Montenegrin enterprises, and additional EUR 74.7 million by the end of May 2022. IDF launched a new programme to support the development of green businesses in August 2021. In November 2021, IDF signed a EUR 50 million loan agreement with the EIB to support faster recovery of the local economy from COVID-19 and help introduce energy-efficient practices among small businesses in the country.

Montenegro expressed its interest to participate in the Single Market Programme (SMP). Formal negotiations for an Association Agreement started in March 2022 and are progressing.

**On sectoral policies,** an action plan for the implementation of industrial policy for 2021-2022 was adopted in October 2021, allocating EUR 450.8 million for the planned activities. Government's work programme for 2022 is focused on the synergies between Industrial Policy and the Smart Specialisation Strategy. In December 2021 the government adopted guidelines for the revitalization and development of manufacturing industry. The document defines measures and activities that should contribute to the establishment of a modern industrial base in Montenegro. The 2021 report on the Implementation of Industrial Policy of Montenegro 2019-2023 is yet to be adopted.

As regards innovation policy (*see also chapter 25, Science and Research*), two new structures were established in 2021 - the Council for Innovation and Smart Specialization and the Innovation Fund of Montenegro.

Despite some progress on inter and intra-ministerial cooperation, in particular when preparing the Economic Reform Programme 2022-2024, cooperation on technical and political levels should be further reinforced. The number of sectoral strategies, actions plans and reports should be further decreased and activities consolidated, in order to facilitate the efficient management of enterprise and industrial policy.

## **Chapter 25: Science and Research**

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

Montenegro has a **good level of preparation** in this sector. **Good progress** was made on each of the 2021 recommendations through continued implementation of the Smart Specialisation Strategy and by starting participation in the Horizon Europe programme.

In the coming year, Montenegro should in particular:

- further advance implementation of the Smart Specialisation Strategy while taking steps to make the Innovation Fund fully operational;
- strengthen structures of academia-business cooperation and further support the knowledge transfer between them;
- increase investments in research and innovation programmes and participation in the Horizon Europe programme, ensuring that this also targets women.

On **research and innovation (R&I)** policy, the implementation of related strategies continued, and support for innovative projects were provided through a number of programmes, including pre-acceleration for start-ups. Montenegro adopted five pieces of by-laws in order to fully implement the legal framework for innovation. A memorandum on cooperation within the National Open Science Cloud Initiative was signed by nine Montenegrin higher education and research institutions in January 2022. Montenegro has initiated the creation of a feasibility study of a national open science repository, which will provide necessary elements to form the open science repository and join the European Open Science Cloud.

The latest available statistics from 2019 indicated that research and development (R&D) funding stood at 0.36 % of GDP in 2019 (0.50% in 2018), with an investment share of 0.12 % provided by the private sector. An increased budget in this area remains very much needed to support the country's economic recovery, while helping address the issue of brain drain of researchers and young people.

The new Strategy for Scientific Research Activities (2022-2026), which will define instruments aimed at increasing the number of researchers, is not yet in place. The working group tasked with its development was established on 25 January 2022. One of the priorities of the future strategy will be making stronger connection between science and economy, further linking scientific research and innovation activities. Cooperation between the academic and business sectors is promoted through the implementation of programmes between the Minister of Science and Technological Development, the Ministry of Education, Culture and Sports and the Ministry of Economic Development in the field of innovation. A total of 13 projects supported through the EU-funded Collaborative grant scheme for innovative project ideas are on-going and should be completed by Q4 2022.

Montenegro continues to implement the **Smart Specialisation Strategy (S3)**, in line with its national legislation and the Commission's technical recommendations, through adoption of the Operational Programme for the Implementation of the Smart Specialization Strategy 2021-2024. This covers the four S3 strategic priority areas: agriculture, energy, health and tourism. The Council for Innovation and Smart Specialisation, as the government management body for implementing and monitoring the S3 process, was established in June 2021 and held its first session in December 2021. The inter-institutional S3 working group has been established under the lead of the national S3 coordinator. Following the organizational changes in the government of Montenegro, harmonization of the structure of

the Council for Innovation and Smart Specialization has been initiated in June 2022. It is established with an aim to coordinate and make use of the feedback of all relevant target groups in creating, implementing and monitoring the process of smart specialization. The changes in the institutional S3 Group are also ongoing.

Further to its establishment in June 2021, the national Innovation Fund became operational at the beginning of 2022, with 7 employees and following the adoption of its 2022 work programme. It will support the implementation of innovation policy by funding innovation activities and technological development. First calls for support schemes (vouchers) financed from national budget were launched in early 2022, with a total budget of EUR 100.000. The development of an information and communication technology (ICT) cluster has not yet been finalised. The fully equipped and operational laboratories at the innovation and entrepreneurship centre 'Tehnopolis' are providing support to businesses, based on innovative ideas and technologies. Following delays, the construction works on the Science and Technology Park (STP) in Podgorica are now progressing. Both the STP and Tehnopolis are directly involved in implementing certain measures and instruments defined by the S3. In March 2022, the Ministry of Economic Development and the University of Montenegro decided to establish a National Technology Transfer Office (TTO) within the STP in Podgorica. Montenegro's status in the European Innovation Scoreboard (EIS) in 2021 was one of emerging innovator.

The international agreement on Montenegro's participation in **Horizon Europe** was signed in December 2021. A number of institutions have already negotiated and signed grant agreements. The participation of the scientific research community in the Cooperation in Science and Technology (COST) programme increased in 2021, and Montenegrin research teams participated in about 110 (still ongoing) actions during the previous year. In May 2022, COST Committee of senior officials confirmed the funding of 70 new COST actions that will officially start in the autumn of 2022. Research teams from Montenegro also participated as partners in 12 approved COST actions. The implementation of nine EUREKA projects continued in 2021.

In November 2021, the country and the International Atomic Nuclear Agency adopted the Programme of technical cooperation 2022-2023.

The implementation of the project establishing the Southeast Europe International Institute for Sustainable technologies (SEEIIST) for hadronic cancer therapy and research in the field of biomedicine using protons and heavier ions has continued.

Podgorica was selected to participate in the EU Climate and Smart Cities mission by 2030, along with 100 cities from 27 EU Member States and as one of the 12 cities from countries associated to the Horizon Europe programme.

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

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

Montenegro has a good level of preparation in this area. Some progress was made regarding the recommendation on inclusive education but for other recommendations much more effort is needed and thus, they remain valid.

In the coming year, Montenegro should in particular:

→ adopt a costed plan for wide ranging education reforms including inclusive education

and improving access to quality education at all education levels;

- implement the new strategy on early and pre-school education 2021-2025 to improve pre-school enrolment for all children;
- finalise then initiate the national Vocational Education and Training (VET) implementation plan 2022-2023 of the VET Strategy 2020-2024, as well as putting in place the evaluation mechanism of practical learning at VET and higher education levels.

On **education and training**, the government adopted the strategy on early and pre-school education 2021-2025 with a related action plan 2021-2025, and the strategy for digitalization of the education system in Montenegro 2022-2027, with the action plan 2022-2023 in October and December 2021 respectively.

According to the Economic Reform Programme of Montenegro, 2022-2024, spending on education was 4.3% of GDP in 2021. The preschool enrolment rate stood at 48.71% (male: 49.09% and female: 48.30%) in 2020-2021, still well below the EU 95% target. This enrolment of students was however affected by the COVID-19 context. The number of children in preschool education returned to the 2019 level (72% of children aged 3-6), and the number of children with disabilities in both preschool and primary education increased by 21% and 7%. Online schooling continued during the school year, and regular schooling restarted as of 1 September 2021 (with 30-minute classes) continuing the supporting measures on digital exclusion taken in the previous year, and taking into account that many children lacked internet access, Telekom of Montenegro provided internet coverage for 100 branch units of primary schools (or 50% of total number of branch institutions) located in rural areas. This is the first phase of a broader initiative planned by the strategy for digitalization of education system, i.e. to make internet available in all schools in Montenegro and providing all children attending school with a possibility to use digital content. Furthermore, the government approved in December 2021 the Strategy for Digitalization of Education (2022 – 2027), which is fully aligned with the EU Digital Education Action Plan.

Although an analysis of the education systems has been completed, Montenegro still does not have a qualitative, budgeted, multi-annual education strategy and plan for sustainable reforms. This would require broad discussions with all relevant stakeholders, including civil society taking in issues of youth with disabilities, minority groups, as well as a gender dimension focusing on the specific needs of girls and boys.

The provision of additional free textbooks in primary schools, additional mentors and associates engaged at primary and secondary schools for Roma and Egyptian pupils continued. As in 2020, free transport was provided for 600 primary school students (again Roma and Egyptian) in Nikšić, Podgorica, Cetinje and Berane municipalities. Scholarships were provided for 172 Roma and Egyptian students at secondary and 12 at university-level. Montenegro has still to more closely align with the Poznan Declaration on Roma integration in order to fully implement the strategy for inclusive education 2019-2025. This strategy is being implemented through a range of actions, such as counselling for schools with integrated classes promotional activities for local communities, and trainings to schools' management, teachers and professional staff. Teaching aids and IT equipment were ensured through an EU-funded project. However, results on an EU-funded project aimed at improving access for persons with disabilities in eight schools were not yet finalised.

The new strategy on early and preschool education was adopted in Q4 2021 and its implementation started including support to all pre-school institutions for conducting campaign on enrolment, capacity building of staff to implement the parenting programme, a



workshop on partnerships with Roma and Egyptian families. Regarding the Strategy on lifelong entrepreneurial learning (2020-2024) the report on the implementation of its 2021 action plan is ready, as well as the action plan for 2022-2023 and their adoption is expected in the next government session. Montenegro has developed key competences, specifically those linked to STEM subjects (science, technology, engineering and mathematics) within an EU-funded project dedicated to the integration of key competences at all levels of the education system.

In the area of skills and **vocational education and training (VET)**, and in line with the related action plan 2020-2021, 27 occupational standards, 27 professional qualification standards and ten standards of qualification levels of education were developed with EU funds. A report on the implementation of the Action Plan 2020-2021 of the VET strategy 2020-2024 is, however, not yet available nor is the action plan 2022-2023. Montenegro is committed to implement and monitor the 2015 Riga Conclusions on VET and participates regularly in the policy dialogue on VET reforms at EU and regional level. Montenegro has been following initiatives by Regional Cooperation Council (RCC) and Education Reform Initiative (ERI SEE). Regarding the Osnabrück Declaration 2021-2025 and commitments stemming from the declaration signature (commitments to the European Education and Training Area and the international dimension of VET), Montenegro has finalised the related National Implementation Plan. Montenegro organised dual education (the school year 2021/2022) in 25 schools in 17 municipalities for around 600 students (17 educational programmes) with the involvement of 230 employers. According to the Ministry of Education, the report on dual education for 2020/2021 has been prepared, however it is not yet available. In cooperation with the European Training Foundation, the document on career development was drafted in 2021, and the Programme for lifelong career guidance and counselling 2021-2023 with the related action plan was developed in Q4 2021. In January 2022, the annual plan for adult education for 2022 was adopted as part of the wider Adult Education Plan 2019-2022.

The Ministry of Education, Science, Culture and Sports revised strategy for higher education to cover the period 2022-2026 and draft a new Law on Higher Education. However, their adoption is pending and tangible results are not yet in place. Developing a structured monitoring and evaluation of practical education in higher education programmes remains to be an area that requires specific attention.

Montenegro benefits from the international dimension of the Erasmus+ programme. The ring-fenced support for the four Western Balkan countries not yet associated to the programme provided by IPA amounts to EUR 374 million for the 2021-2027 programme period. In 2021, Montenegro applied for two calls under the EU's programme Erasmus+. While there is not information on the implementation of the Progress in International Reading Literacy Study (PISA) and the 2021 action plan and recommendations for improving education quality, Montenegro is still active in these processes.

On **culture**, in December 2021 Montenegro signed an agreement with the European Commission for its participation in the EU Creative Europe 2021-2027 programme. Montenegro still needs to establish an overall management system to implement protection measures for the preservation of Kotor's (Boka Kotorska Bay) UNESCO World Heritage status.

The newly formed Ministry of Youth and Sports is responsible for the new Strategy on Youth and while the previous strategy ended in 2020 as yet a new one has not yet been approved. As part of the Youth Law, 11 Administrators were appointed for youth centres but most lack institutional support and a budget for activities. Youth centres need to establish new Action

Plans but are dependent of the approval of the new Strategy on Youth. The National Youth Council, established in 2020, has representatives from the Montenegrin Youth Network and the Network, with 46 members' organizations, is actively participating in the EU Youth dialogue on unemployment, organized by the Regional Cooperation Council (RCC) and Europe House. The outcomes of the Youth dialogue should also be incorporated into the Youth Guarantee which is under development.

#### 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 the customs union. It made **limited progress**, slowly advancing preparations for accession to the Convention on common transit procedure, and implementing actions foreseen in the trade facilitation strategy 2018~2022, in limited fulfilment of last year's recommendations. The reorganisation of the customs administration in April 2021 resulted in numerous changes on the managerial positions and brought staff recruitment to a standstill. In consequence, the reforms slowed down and many IT projects, co-financed by the EU, were delayed. Significant challenges remain in reducing illicit tobacco trade through the port of Bar. Last year's recommendations remain therefore valid.

In the coming year, Montenegro should in particular:

- establish an EU-compatible computerised transit system (NCTS) and finalise accession to the Convention on a common transit procedure;
- continue implementing trade facilitation measures to reduce administrative inefficiencies and the time needed for customs clearance;
- ensure sufficient staffing levels for timely and efficient implementation of numerous IT development projects.

On **customs legislation**, the new Customs Code, aligned with the Union Customs Code, was adopted in July 2022, though its implementation will start in February 2023. In December 2021, the government adopted an action plan to address last year's recommendations. The document indicates that the implementation of the Customs Code and the ratification of the Law on accession to the Convention on common transit procedure and the Convention on trade facilitation in goods should be finalised in the third quarter of 2022. The legislation on the control of production and trade of drug precursors is expected to be adopted at the same time.

Montenegro is implementing the Regional Convention on Pan-Euro-Mediterranean (PEM) preferential rules of origin. The ratification procedure to adopt PEM transitional rules of origin is ongoing. In the framework of the Authorised Economic Operators (AEO) programme, one more authorisation was issued, bringing the number of AEOs in the country to three. In December 2021, the government adopted implementing legislation on the customs tariff for 2022.

Further alignment of legislation on customs security, together with adoption of implementing legislation on the export control of cultural goods, remain pending. Fees continue to be charged to lorries in inland customs terminals located in privately owned facilities, which is not in line with the EU *acquis*.

On **administrative and operational capacity**, the establishment of the Revenue and Customs Administration (RCA) in April 2021 was accompanied by numerous changes in managerial positions and a new systematisation of jobs. Very few recruitments took place. Due to reorganisation, staff shortages and the COVID-19 pandemic, work on the implementation of the New Computerised Transit System (NCTS) and accession to the common transit convention, as well as on other EU-related and co-financed projects, slowed down. Consequently, plans had to be adjusted and the deadlines for projects extended.

The accreditation process for the customs laboratory is still pending. Draft instruction for writing-off customs debt were prepared, but would need to be revised again, following the adoption of the new Customs Code. Work in the areas of the customs decision system and Integrated Tariff Management System started in December 2021 and February 2022, respectively, with EU support.

In 2021, the gross collection of customs revenues amounted to approximately EUR 803 million, which is 19.7% more than in 2020. The trend continued in 2022, with customs revenues reaching EUR 466 million by the end of June 2022, 39% above the amounts collected in the same period of 2021.

As concerns the fight against illicit tobacco trade, in July 2021 the government adopted a decision on banning the storage of tobacco products in the free zone of the port of Bar. However, contracts with free zone users storing cigarettes were to expire only in June 2022. In December 2021, a new government decision finally prohibited the placement of tobacco products in the free zone, except for transshipment. The RCA was tasked to perform the inventory of the tobacco stock and set deadlines to ship them out of the free zone. In parallel, the RCA was requested to introduce and keep electronic records for all movements of goods in the free zone. Before the system became operational in February 2022, a series of cigarette thefts revealed important gaps in the free zone's security, criminal activity and alleged collusion of certain customs officers. In May and June 2022, the RCA and police seized large quantities of cigarettes without excise stamps. They should be gradually destroyed, in accordance with Montenegro's obligations under WHO Framework Convention on Tobacco Control and the Protocol to Eliminate Illicit Trade in Tobacco Products.

The decision on the storage prohibition, implementation of the Cargo Targeting System, enabling pre-arrival risk analysis of containers in the Port of Bar, and the use of electronic record keeping of containers should contribute to the reduction of illicit tobacco trade through the port of Bar. However, gaps in the system remain and need to be addressed and work on a track and trace system for cigarettes should continue.

#### **CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY**

This cluster covers chapters 14-transport policy, 15-energy, 21-trans-European networks and 27-environment and climate change. All four chapters are open, with closing benchmarks that remain to be fulfilled in each chapter. This cluster and the reforms concerned have significant links to Montenegro's Economic Reform Programme, the Commission's Economic and Investment Plan and the Green Agenda for the Western Balkans endorsed by Montenegro.

Some progress was achieved on creating a functioning day-ahead energy market and on preparing for the membership in the Paris Memorandum of Understanding on port state control. There was limited progress on implementing the Transport Development Strategy and on its review; on water management and by improved climate change reporting.

In the coming period, Montenegro is invited to focus on the following areas: complete key recommended reforms in the transport area, in particular on rail transport and on the review of Transport Development Strategy; adopt and implement the law on security of supply of oil

products and set –up the functioning day-ahead energy market; strengthen the administrative capacities to prepare for trans-European networks in the areas of transport, telecommunications and energy; considerably step up ambitions towards a green transition and step up its efforts on implementation and enforcement, in particular on waste management, water quality, nature protection and climate change.

#### **Chapter 14: Transport policy**

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

Montenegro is **moderately prepared/has a good level of preparation** in the area of transport policy. There was **some progress** in the reporting period on key reforms, mainly on the strategic framework for implementation of intelligent transport systems (ITS) in the field of road transport and accession to the Paris Memorandum of Understanding on port state control. Other recommendations from the last year's report remain valid.

In the coming year, Montenegro should in particular:

- achieve full membership in the Paris Memorandum of Understanding on port state control;
- adopt a new railway law and ensure the functional, decision-making and operational independence and appropriate staffing of the railway regulatory body and the railway safety authority;
- start implementing intelligent transport systems (ITS) on its core road network and lay down the strategic ITS framework for the rail and maritime networks.

On **general transport**, in December 2021 the government adopted a roadmap to fulfil conditions for the provisional closure of negotiations in chapter 14. Implementation of the country's transport development strategy continued, albeit with late adoption of the action plan for 2021-2022 in December 2021. Alignment of the national strategy with the Sustainable and Smart Mobility Strategy for the Western Balkans of the Transport Community needs to be prioritised. The Commission for Investigation of Accidents in Maritime, Rail and Air Transport increased its administrative capacity, however its adequate financing is yet to be secured. There was no progress on alignment with the EU *acquis* concerning public service obligations, procedures and criteria for the award of public service contracts in road, rail and maritime transport.

On **road transport**, in December 2021, the government adopted a four-year programme (2022-2026) for development and deployment of ITS in the field of road transport. Capacities and resources for the implementation of the programme need to be allocated. Implementing legislation in the area of minimum safety requirements for tunnels, road safety audits and interoperability of electronic road toll systems provided some further alignment with the EU *acquis*. There was no progress on alignment for other pending legal acts.

The 2020-2022 programme for road safety improvement is in its final year of implementation. However, statistics show no improvement on fatal and serious road traffic accidents. Montenegro should urgently develop a long-term road safety strategy and action plans, in line with the EU road safety policy framework 2021-2030. It should also step up efforts to develop a database for road safety crashes and improve the data quality. A mid-term 2022-2026 road maintenance and rehabilitation programme is yet to be prepared.

**On rail transport**, there was no progress on alignment with the EU *acquis*, including on the adoption of the new railway law, the methodology for track access charges, full market opening for passenger and freight transport services. The management of public service contracts for rail transport and compliance with passengers' rights remain a concern. In November 2021, the government endorsed a new national programme for the rehabilitation and maintenance of the railway infrastructure for 2021-2023. However, sustainable and rationalised railway infrastructure rehabilitation and multi-annual maintenance plans need to be urgently developed. Montenegro should strive to address the key challenges through effective implementation of the Transport Community rail action plan.

**On maritime transport**, several implementing acts were adopted on the inspection of foreign ships. In January 2022, Montenegro started implementing the National Maritime Single Window and initiated an upgrade and extension of the vessel traffic monitoring and information system. Montenegro is yet to align with the EU *acquis* on ports and to adopt legislation based on Port Services Regulation. Montenegro's fulfilment of the conditions for full membership to the Paris Memorandum of Understanding on Port State Control is ongoing.

**On the inland waterway transport** in Montenegro, no progress was made on the alignment with relevant EU *acquis*.

**On aviation**, several implementing acts on air safety and air traffic operations were adopted. Following the establishment of a new national airline company "To Montenegro" in January 2021, the government gradually increased its founding capital. In December 2021, the parliament adopted the law on termination of the law on investments in consolidation and development of the former national airline, "Montenegro Airlines". The certification of airports in Podgorica and Tivat is still not completed. In November 2021, the government adopted a new programme for air transport facilitation.

Concerning **combined transport**, a comprehensive feasibility study and business plan is under preparation for the establishment of the port of Bar as a sustainable multimodal platform. It will provide the necessary baseline for functional requirements, technical specifications and a conceptual design of the selected option for logistic areas and sites. The legislation on combined freight transport from 2014 remains the main legal framework in this sector.

## **Chapter 15: Energy**

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

Montenegro has reached a **good level of preparation** in this area. **Some progress** was made in the reporting period, mainly on preparatory steps towards the creation of a day-ahead energy market and on moving to market-based schemes for renewable energy production. Last year's recommendations were thus partially addressed.

In the coming year, Montenegro should, in particular:

- start operating a functioning day-ahead electricity market and couple with neighbouring markets, including Italy;
- accelerate the move to market-based support schemes for renewable energy production based on streamlined permitting and connection procedures;
- adopt the law on security of supply of oil products and set up the stockholding body

for the mandatory oil reserves.

In the area of **security of supply**, Montenegro has an energy development strategy up to 2030. The government adopted the energy balance for 2022. Activities continued in the context of the development of the National Energy and Climate Plan. No progress was made on the revision of the action plan on compulsory strategic reserves of oil and petroleum products, the adoption of the law on security of supply of oil products and the setup of a central body for strategic oil reserves. Oil stocks still remain very low. However, Montenegro plans to ensure the existence of strategic oil stock reserves by 1 January 2023 thanks to introduction of stock keeping obligations on importers of petroleum products. Montenegro does not import oil from Russia and does not have any gas infrastructure, so the impact of the Russian war on Ukraine on the country's energy security remains limited.

Work on electricity transmission interconnections between Montenegro and Serbia continued. The ecological reconstruction of the thermal power plant Plevlja started at the end of April 2022, with a three-year delay. The completion of this project is expected in October 2024. Montenegro's government maintains that following the reconstruction, the plant will be operating within the emission limits set by the large combustion plants directive.

There was no noticeable progress on the administrative capacity of the national authorities, which needs to be strengthened.

Concerning the **internal energy market**, the first steps towards achieving a competitive day-ahead electricity market have been implemented. A consortium between the European Power Exchange (EPEX SPOT) and the Slovenian BSP South Pool won the tender and signed a service agreement for the implementation of the day-ahead market. Work progresses, including negotiations on coupling the market with neighbouring countries. In November 2021, the Energy and Water Regulatory Agency of Montenegro approved new rules on long-term, daily and intraday capacity allocation for the border between Serbia and Montenegro. The law on surveillance of wholesale electricity and gas market, aligned with the REMIT Regulation, entered into force in January 2022.

On **hydrocarbons**, national legislation is aligned with the hydrocarbons licensing directive. The law on safety measures in offshore exploration and production of hydrocarbons is pending adoption by the parliament. Montenegro has so far awarded two concession contracts for offshore hydrocarbon exploration and production in 2016 and 2017. The exploration period for one concessionaire has been extended to September 2022. In accordance with the concession agreement, the second concessionaire is obliged to find a new partner, to be approved by the government to receive a further extension of the exploration rights. It remains under Montenegro's remit to ensure compliance of the concession holders with environmental liability rules and rule of law standards through contractual obligations. The construction of Montenegro's section of the Ionian-Adriatic Gas Pipeline (IAP) has cumulated a serious delay. Work on the preliminary design of this section was completed in October 2021, while a public consultation on the environmental and social impact assessment documentation is yet to be implemented. The advancement of the project depends on the ability of the government to conclude appropriate public consultations and reach an agreement with concerned municipalities on the preferred alignment.

In the area of **renewable energy**, 43.8 % of gross final consumption of energy came from renewable sources in 2020, which exceeded the 33% target to be achieved by 2020 under Montenegro's national action plan. In July 2021, the government decided to stop previous schemes providing price subsidies for electricity produced from renewable sources and highly efficient cogeneration. In March 2022, the government granted a concession for the

construction, maintenance and use of the Komarnica hydropower plant to the national energy company, EPCG. The government also adopted decisions on terminating concession agreements for constructing several small hydropower plants. Progress has been made in the development of spatial plans and environmental impact assessments for the implementation of wind farms and solar power plants. It remains essential that the development of new renewable energy projects, particularly on hydropower, are carried out in conformity with the EU *acquis* on concessions, State aid and the environment.

In the area of **energy efficiency**, some progress was made in alignment with the EU *acquis*, with the adoption of implementing legislation on requirements for eco-design and energy efficiency labelling of energy-related products. The National Energy and Climate Plan (NECP), once adopted, will replace the existing energy efficiency action plan as the key planning document in the area of energy efficiency. The Ministry of Capital Investments continued coordinating several programmes on energy efficiency improvement for public and private households. In October 2021, the "Energy Efficient Home" pilot programme opened to citizens the opportunity of interest-free loans for implementing energy efficiency measures in households. The energy efficiency fund has not been established yet. There have been no developments in improving statistical data collection and monitoring the implementation of the energy efficiency action plan.

Regarding **nuclear energy, nuclear safety and radiation**, Montenegro does not have a nuclear industry, research reactor or any other facility producing radioactive materials and national legislation prohibits the construction of nuclear facilities. The country continues to cooperate in several regional initiatives for the early exchange of information in the event of radiological emergency (ECURIE). However, it is yet to join the European Radiological Data Exchange Platform and currently has no intention to participate in the Capital and Advisory Committee of the Euratom Supply Agency.

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

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

Montenegro remains **moderately prepared /has a good level of preparation** in the area of trans-European networks. There was **limited progress** on the implementation of the Transport Development Strategy, primarily on the development of rail projects. Last year's recommendations remain valid.

In the coming year Montenegro should in particular:

- review the Transport Development Strategy to align it with the Strategy for Sustainable and Smart Mobility in the Western Balkans, confirming a shift towards greener transport modes;
- revise institutional policies to improve the efficiency of managing infrastructure projects and increase the funding absorption capacities;
- ensure that capacitated staff is retained or hired for managing infrastructure projects in the areas of transport, telecommunications and energy.

In December 2021 the government adopted a roadmap to fulfil conditions for the provisional closure of negotiations in chapter 21.

On **transport networks**, Montenegro continued to actively participate in the work of the Transport Community Treaty (TCT). In December 2021, the government adopted the 2021-

2022 action plan for the Transport Development Strategy. The strategy needs to be reviewed in 2022, to align it with the TCT obligations, notably the Strategy for Sustainable and Smart Mobility in the Western Balkans. The revision will bring about a shift towards greener and more sustainable modes of transport, in line with the current EU policies. The long-awaited law on railways is expected to clearly define responsibilities of railway regulatory body and operational implementing agencies. Montenegro is a member of the Western Balkans Road Safety Observatory, established in July 2021.

In December 2021, the government adopted a new single project pipeline (SPP) document, which includes numerous projects in the areas of energy and transport. However, the cost estimates and maturity statements on transport projects were not updated and reflect the data and prices from 2017. In view of the increases in construction costs, the pipeline of EUR 3.7 billion investments in transport projects would need to be evaluated with caution. The impact of such plans on the country's budget and fiscal space is yet to be assessed. Moreover, Montenegro needs to change its institutional approach to improve the efficiency of managing infrastructure projects, in order to increase its funding absorption capacities.

**On infrastructure development**, several priority road projects were suffering delays. Works on the priority section of Bar-Boljare highway (Smokovac – Matesevo) continued. The section was finally opened to traffic in July 2022, with a three-year delay. The applicable toll rate for passenger vehicles on the completed section of the highway is 8 cents per km, 60% above the rate recommended by the EU-financed feasibility study and cost-benefit analysis for the entire Bar-Boljare highway (5 cents). The study, which includes recommendations on construction standards, toll rates and means of financing for the remaining sections, should be adopted in 2022. The preliminary design work on Budva bypass section of the Adriatic-Ionian expressway progressed very slowly, hampered by Montenegro's legislation on preliminary design requirements for complex infrastructure, which leads to excessive design costs and causes delays. As a result, the European Commission cancelled the investment grant of EUR 41.2 million, inviting for re-application should project maturity be attained.

On the rail network, works on different rail projects continued with EU funding, including on the upgrading of the Bar-Vrbnica railway and a feasibility study on Podgorica-Tuzi-Albania border railway.

**On energy networks**, progress continued in interconnecting the electricity systems of Serbia, Bosnia and Herzegovina, Italy and Montenegro. The construction of Montenegro's section of the Ionian-Adriatic Gas Pipeline (IAP) has so far cumulated a serious delay. Work on the preliminary design of this section was completed in October 2021, while a public consultation on the Environmental and Social Impact Assessment (ESIA) documentation is yet to be implemented. The advancement of the project is very much depending on the ability of the Government to instigate appropriate public consultations and reach an agreement with concerned municipalities on the preferred alignment.

Overall, infrastructure investments need to comply fully with the EU standards on public procurement, State aid and environmental impact assessment. New investments need to address changing strategic priorities, decarbonisation, digitalisation and resilience of transport and energy networks, all with prior cost-benefit analyses carried out in line with EU best practice.

Montenegro is yet to fully align its legislation with the TEN-T and TEN-E EU *acquis*. A legislative gap analysis was prepared.

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



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

Montenegro has **some level** of preparation in this area. **Limited progress** was made in further aligning with the EU *acquis*, on water, nature protection and climate change. Significant efforts are still needed on implementation and enforcement, in particular on waste management, water quality, nature protection and climate change. Montenegro should considerably step up its ambitions towards a green transition.

In the coming year, Montenegro should in particular:

- intensify implementation and enforcement work for the fulfilment of the closing benchmarks in the Chapter 27, in particular in the water, nature protection, and climate change sectors;
- finalise the waste management law and the national waste management plan;
- finalise, adopt and start implementing the national energy and climate plan in a transparent manner, in line with the EU's 2050 zero emission target and the Green Agenda for the Western Balkans.

#### Environment

On **horizontal legislation**, in October 2021, the government adopted the first semi-annual report on the implementation of the action plan for the fulfilment of the closing benchmarks in Chapter 27. In December 2021, the government adopted the financial assessment of the action plan for the fulfilment of the closing benchmarks in Chapter 27, covering 2021-2025, indicating financial needs amounting to nearly EUR 483 million. In the reporting period, Montenegro completed five strategic environmental assessments (SEA) and 53 environmental impact assessments (EIA). On environmental crime, in the reporting period, 101 new cases were registered and 46 cases were legally resolved. The lack of sufficient administrative capacities at central and local level and inspection bodies, insufficient inter-institutional coordination and lack of a sustainable financial framework remain challenges to be urgently addressed. The position of the head of the working group for Chapter 27 remains to be filled.

As regards **air quality**, in October 2021, the government adopted the decree on emission limit values from combustion plants and the method of calculating emission limit values for plants using several types of fuel. As in the previous reporting period, the adoption of the strategy on air quality management for the period 2021-2029, as well as of the action plan 2021-2022, remain pending.

In the area of **waste management**, alignment remains partial. Considerable efforts on strategic planning and investments are needed to implement the national strategy for waste management until 2030. Work on the law on waste management continued during the reporting period. A new national waste management plan remains to be drafted. Over the reporting period, recycling yards with a sorting plant were built in the municipalities of Plav and Petnjica. However, infrastructure for separate waste collection and recycling remains to be established in most of the country's territory and illegal and temporary waste disposal to be resolved. A feasibility study for the construction of a regional waste management centre in Bijelo Polje has been finalised. It will serve all municipalities in the northern part of Montenegro.

Alignment on **water quality** remains limited. In March 2022, the government adopted the water management plans for the Danube and Adriatic basins. Significant efforts are still needed to implement the water quality *acquis*. In order to implement the Floods Directive, an analysis of the existing flood protection infrastructure has been done and a preliminary risk assessment has been carried out, while the development of maps of flood hazards and flood risks started. Further work for alignment with the *acquis* was pursued as concerns water intended for human consumption and for implementing the bathing water directive.

In the area of **nature protection**, Montenegro is partially aligned with the EU *acquis*. In the last quarter of 2021 the government declared the two marine nature parks "Katič" and "Stari Ulcinj" as protected areas. Following the July 2021 decision of the government's privatisation council on Ulcinj Salina land as state-owned, the adoption of the privatisation council decision by the Government is pending. Since December 2021, an EU expert supports further work to develop the management model for the national park Ulcinj Salina. Activities regarding Natura 2000 have continued over reporting period, funded by the national budget. Recommendations of the Bern Convention related to Skadar Lake still need to be addressed. Montenegro should use support provided to establish its Emerald network based on Natura 2000 mapping information. Following Bar-Boljare highway construction negative impact, Tara river remediation work has been completed for the first location Uvač, in line with the remediation plan.

On **industrial pollution control and risk management**, Montenegro remains partially aligned with the EU *acquis*. Further implementing legislation was adopted to the law on industrial emissions. Activities continued in the field of industrial waste management. Reconstruction of the Pljevlja coal power plant to meet EU emission standards started in April 2022. Its completion is expected in more than two years.

On **chemicals**, the government adopted implementation reports as concerns the Stockholm Convention 2019-2023 and the Minamata Convention, jointly with the action plan 2022-2023 and the Minamata initial assessment. A memorandum of cooperation among different national stakeholders was signed to improve inter-institutional cooperation in the area of chemicals.

On **noise**, the capital city of Podgorica, in line with strategic documents in the field of environmental noise protection, has started the implementation of noise monitoring programs at 11 resident locations.

On **civil protection**, Montenegro has been a member of the Union Civil Protection Mechanism since April 2015. In December 2021, the work on the development of the National Risk Assessment for all types of hazards affecting Montenegro was completed, as part of a project funded by the EC. The document was acknowledged through the adoption by the government of Montenegro. The necessary communication equipment (sTESTA) is installed in the premises of the Police Directorate. In view of this Montenegro is fulfilling the pre-requisite to connect to the Common Emergency Communication and Information system, commonly referred to as CECIS.

#### Climate change

Montenegro's level of alignment on **climate change** remains limited. Montenegro has a climate change strategy in place, but has to intensify its work to ensure consistency with the EU 2030 climate and energy policy framework. It also needs to ensure that its strategy is integrated into all relevant sectoral policies and strategies. Montenegro needs to enhance its administrative capacity to enable implementation and enforcement of the *acquis*. Considerable work is still required to align with the EU *acquis*, such as to incorporate

remaining elements of the EU Emissions Trading System (ETS), the Effort Sharing Regulation and the Governance Regulation. In December 2021, the government adopted the third biennial update report on climate change of Montenegro. The report has been finalised with revised calculations of greenhouse gas emissions for the period 1990-2019, in line with the new methodology of the 2006 IPCC Intergovernmental Panel on Climate Change. Montenegro has been granted World Bank support in order to achieve carbon pricing readiness through the Market Implementation Partnership (PMI) program. Montenegro took initial steps for the development of its low carbon development strategy. The work on the development of the national energy and climate plan continued, finalisation expected by mid-2024. Montenegro took part in the conference of the UN Framework Convention on Climate Change (COP26) in late 2021. In March 2022, the government adopted the second report on the implementation of the national strategy for climate change.

#### **CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION**

This cluster covers chapters 11-agriculture and rural development, 12-food safety, veterinary and phytosanitary policy, 13-fisheries, 22-regional policy & coordination of structural instruments, and 33-financial & budgetary provisions. All five chapters are open, with closing benchmarks that remain to be fulfilled in each chapter. This cluster comprises policies linked to European structural funds, requiring particular preparation for developing the capacities to assume responsibilities of a future Member State.

Progress was achieved in different areas e.g. in agriculture, food and fisheries through further support for agricultural establishments and rural food companies to align with the EU standards and in implementing IPARD. On financial and budgetary provisions, progress was achieved through improved coordination and management of own resources.

In the coming period, Montenegro is invited to focus on the following areas: use to the best possible extent the remaining budget under IPARD II programme to use to the highest step up the implementation of the IPARD programme and to finalise the national strategies on agriculture and rural development as well as on fisheries for the 2022-2027 period; to continue upgrading food establishments and further strengthen administrative capacity in particular on food safety controls and fisheries; to update the action plan for meeting EU cohesion policy requirements while strengthening capacities to manage IPA programmes; to further align the institutional framework and rules of administration for the own resources system.

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

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

Montenegro remains **moderately prepared** in the area of agriculture and rural development. **Some progress** was achieved on last year's recommendations, mainly regarding the instrument for pre-accession assistance for rural development programmes (IPARD II and III) through further calls for applications, request for entrustment for the 'Technical assistance' measure and for adoption of the IPARD III (2021-2027) programme, as well as strengthening of the capacity of the IPARD agency. The implementation of the action plan on EU *acquis* alignment and the new sector strategy development was limited.

In the coming year, Montenegro should in particular:

→ use to the best possible extent the remaining budget under IPARD II programme, seek a rollover entrustment for the already entrusted measures to IPARD III (2021-2027)

programme and work on completing the entrustment of the measures '*Farm diversification and business development*' and '*Technical assistance*';

→ continue to implement the action plan for alignment with the EU *acquis* on agriculture and rural development, and adopt the strategy for agriculture and rural development 2022-2028.

On **horizontal issues**, drafting of the 2022-2028 strategy for agriculture and rural development started. The action plan for the EU *acquis* alignment was updated to cover the period without a strategy and calls for accelerated implementation. Progress still needs to be achieved by fully decoupling direct payment measures from production while linking payments to cross-compliance requirements.

Setting up of the integrated administration and control system (IACS) needs to be speeded up. Some more agricultural plots and holdings were registered in the land parcel identification system (LPIS) which remains to be rolled out to the whole territory. There was good progress for the farm accountancy data network (FADN) through development of software and training. Farm advisory services remain to be strengthened.

On **common market organisation (CMO)**, implementation of the Action plan for CMO alignment remains to be stepped up.

The Law on amendments to the Law on olive growing and olive oil, which will allow strengthening of the inspections and improving the quality of the olive oil, is currently with the Parliament.

A new draft law on spirit drinks has been elaborated, taking into account Regulation (EU) 2019/787. It was adopted by the government in July 2022.

On **rural development**, altogether nine IPARD calls under the IPARD II programme were realised in total (3 new calls in the reporting period), for the measures '*Investments in physical assets of agricultural holdings*', '*Investments in physical assets concerning processing and marketing of agricultural and fishery products*' and '*Farm diversification and businesses development*'. The IPARD measure '*Technical assistance*' was submitted for entrustment in February 2022. Slow implementation led to the first de-commitment of funds after the end of the financial year 2021 and there is a considerable risk of further loss of IPARD funding. Therefore, stronger efforts are needed to fully absorb the funds in 2022 and 2023. Montenegro's IPARD III programme was approved by the European Commission in June 2022. Strengthening of the administrative capacity of the IPARD Agency in 2022 was supported with an amendment of the Systematization Act of the MAFWM, stipulating additional 25 posts for the IPARD activities.

On **quality policy**, efforts continue to develop this policy area. All recommendations of the EU Peer Review Mission in November 2019 must be followed up.

On **organic farming**, the potential for further development and expansion of the sector remains to be supported. The law on organic production, to align with the EU *acquis*, is being drafted.

## **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 the quality of seed, the plant protection material, the protection against harmful organisms and animal nutrition.*

**Montenegro remains moderately prepared on this chapter. Good progress was made on**

previous year's recommendations by implementing the national strategy for aligning with and implementing the EU *acquis* and in the upgrading of establishments. Administrative capacities and disease surveillance should be stepped up.

In the coming year Montenegro should in particular:

- continue to implement and update the revised strategy for aligning with and implementing the EU *acquis*;
- further increase the share of food establishments compliant with EU standards;
- step up the strengthening of administrative capacity and infrastructures, in particular on food safety controls, and implement robust disease surveillance and vaccination, as applicable.

On **general food safety**, the revised strategy for aligning with and implementing the EU *acquis*, and the specific action plan for classical swine fever were implemented on schedule and further implementing legislation was adopted. The 2021 programme for food and feed safety measures was implemented and the programme for 2022 was adopted and it is in implementation.

On **veterinary policy**, the programme of mandatory animal health protection measures for 2021 was implemented. The programme for 2022 was adopted and it is being implemented. Surveillance programmes were implemented for bluetongue disease and classical swine fever, where one sample showed presence of bluetongue virus genome, but vector surveillance showed none. Montenegro has resumed vaccination against rabies with EU support as of spring 2022 and until autumn 2023. Taking full ownership, Montenegro should transition to using its own means for future campaigns in line with relevant EU *acquis* obligations and should urgently set up and implement robust disease surveillance. Strengthening of regional alliances in the fight against cross-border animal diseases was agreed at the forum of directors of veterinary services of the Western Balkans.

The first case of Avian influenza was detected in Montenegro on April 6 2022 in a deceased pelican, followed by others. Measures are put in place to control the disease in line with the relevant national legislation, and the recommendations and standards of relevant international organisations.

Regarding African swine fever, there are no reported cases of the disease in Montenegro so far. Montenegro has been closely monitoring the situation and responding with appropriate measures, in line with the relevant legislation. The government adopted a programme for the control of the dog population in Montenegro in July 2021.

On **placing on the market of food, feed and animal by-products**, the upgrading of food establishments continued, with now more than 50% compliance. The total number of establishments concerned decreased from 156 to 133 since 2015/2016. There are now 19 facilities licensed to export to the EU. The National Program for the improvement of establishments dealing with products of animal origin and of establishments dealing with animal by-products was amended in December 2021.

Montenegro continued to implement the national programme for improving raw milk quality and handling non-compliant milk. Increased digital data exchange is expected according to plan.

The programme of **food and feed safety measures** for 2021 was implemented and the programme for 2022 was adopted. The programme of **phytosanitary measures** for 2021 was implemented and the programme for 2022 was adopted. Additional implementing legislation

concerning the phytosanitary sector was adopted. The National plan for sustainable use of pesticides for the period from 2021 to 2026 was also adopted and is currently being implemented. Planning for the construction of the National Reference Phytosanitary Laboratory advanced.

On **genetically modified organisms**, the 2021 programme for genetically modified food and feed monitoring was implemented and the programme for 2022 was adopted and it is being implemented.

### Chapter 13: Fisheries

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

Montenegro has **some level of preparation** in this area. **Limited progress** was made on the recommendations of the last report, which remain valid. Montenegro continued to be a reliable partner in international fora.

In the coming period, Montenegro should in particular:

- finalise its work in preparation of the new fisheries and aquaculture strategy with the action plan on aligning with and enforcing the EU *acquis*;
- continue to strengthen administrative, data collection, scientific advice, inspection and control capacities;
- continue, within the General Fisheries Commission for Mediterranean (GFCM), the implementation of the multiannual plan for demersal species in the Adriatic.

Montenegro continued to implement its action plan on aligning with, implementing and enforcing the EU *acquis* under this chapter. The preparation of a fisheries sectorial study was finalised as the baseline for the new fisheries and aquaculture strategy 2023-2028 and its action plan. The Law on market organisation in fisheries and aquaculture and the Law on structural measures and State aid in fisheries and aquaculture are pending adoption by the Parliament.

On **resource management**, the implementation of the activities within the annual data collection programme on Montenegrin fisheries for 2021 continued for the collection of commercial catch data, while COVID-19 prevented the collection of biological data. In the area of **fleet management**, following a public call on fleet modernisation, contracts were signed with 19 commercial fishers in December 2021.

Regarding **inspections and control**, new functionalities are being added to the Fisheries Information System and an electronic licensing system for sport and recreational fishing is nearing completion. Dialogue with Albania continued to harmonise the management of the joint European eel resources and on control of illegal, unreported and unregulated fishing (IUU). The port of Bar was designated as the port open for foreign fishing vessels. On **data collection**, efforts should mainly focus on scientific observers on board of fishing vessels and on recreational fisheries. There were no substantial developments on **structural actions, market policy and State aid**.

At the **international level**, the Blue Land project, within INTERREG programmes, was successfully finalised. Montenegro also continued its cooperation with FAO AdriaMed, MedFish4Ever and the General Fisheries Commission for the Mediterranean (GFCM). Here,

the implementation of the multiannual plan for demersal species in the Adriatic still suffers from the discontinuation of FAO AdriaMed support and the lack of national funding.

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

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

Montenegro is **moderately prepared** in the area of regional policy and coordination of structural instruments. **Limited progress** was made over the reporting period, particularly in respect of key decisions yet to be reached on the institutional framework for preparing to future cohesion policy and on administrative capacity, which remains weak. 2021 recommendations remain largely valid.

In the coming year Montenegro should in particular:

- update the action plan and restart its implementation for meeting requirements deriving from EU cohesion policy;
- invest in increasing and consolidating the administrative capacity of central, regional and local bodies to more effectively safeguard IPA funds, and to put in place a structure to manage future cohesion policy funds. Strengthen capacities in procurement, management and monitoring of capital investments, while also reinforcing existing coordination mechanisms;
- create a credible pipeline of projects, along with a framework for strategic sectoral orientations and policies, while improving their preparation, procurement and implementation in line with EU and international standards.

Regarding the **legislative framework**, some progress has been registered in the field of public procurement and competition law. The strategies for enhancing public procurement and public-private partnership policy in Montenegro for the period 2021-2025 and the accompanying action plan were adopted in October 2021. The preparation of amendments to the Public Procurement Law, which aim at the harmonization of legal provisions with the electronic public procurement system, have not been finalised. There was further harmonization in the field of competition with the adoption in December 2021 of the Law on Amendments to the Law on Protection of Competition, chiefly concerning the manner and requirements for selection of the Council of Agency for the Protection of Competition (APC) members and its management.

On the **institutional framework** limited progress was registered. According to the Roadmap for fulfilling the remaining obligations for chapter 22, the Law on European Structural and Investment funds, which is to formalise and legally define such a framework is currently only planned for the third quarter of 2024. However, the EU regulation establishing the IPA III for the period 2021-2027 has emphasized the importance and urgency of such a definition. The institutional set up and the system for management of IPA funds in indirect management still needs to be adapted to IPA III requirements. Decisions on the appointment of institutions and bodies that will implement IPA III should be formalised urgently, taking into account their future role in cohesion policy.

On **administrative capacities**, the lack of adequate resources for procurement, contract management and preparation and implementation of key structural reforms remains a weakness. The implementation of the staff retention policy was resumed in the second semester of 2021, being implemented through a salary supplement for staff within IPA

structures. However, the hiring of additional experienced staff, the delivery of targeted trainings, as well as clearer strategic directions from management boards from the Ministries, remains necessary so to build capacity and motivate staff. The contracting of IPA 2017 funds by December 2021 resulted in a better performance compared to the previous year. This noted, coordination between the contracting authorities and line ministries still requires strengthening. Significant capacity strengthening is also still needed to achieve efficiency in the preparation and implementation of public procurement, while the contracting of IPA 2018 funds are still at risk, and preparatory activities for the procurement of IPA 2020 funds proceed at too slow a pace. Greater investment in resources, particularly in the Public Works Administration, is needed. The capacities of indirect management structures still need to be further strengthened to ensure they can effectively operate in an ex-post control environment.

### 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; (iii) the non-recycled plastic resource; and (iv) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.*

Montenegro has some level of preparation regarding EU financial and budgetary provisions. Limited progress was made in meeting last year's recommendations, mostly on increased capacities of the Directorate for coordination and management of EU own resources within the Ministry of Finance. The 2021 recommendations remain largely valid.

In the coming year, Montenegro should, in particular:

- further set up the institutional framework and rules of administration for the own resources system;
- further align the legal basis for the underlying policy areas affecting the correct application of the own resources system: taxation (VAT), customs union, financial control and statistics;
- continue strengthening the capacity of the Directorate for coordination and management of EU own resources and of all other institutions involved in the own resources system.

Overall, there was little progress in the underlying policy areas indirectly affecting the own resources system (*for progress in these areas, see Chapters 16 – Taxation, 18 – Statistics, 29 – Customs union, and 32 – Financial control*).

**On traditional own resources**, analysis of the accounting rules (A&B accounts) and definition of income according to its future classification continued, including simulation exercises on A and B accounting and on submission of reports on detected cases of fraud and irregularities. Efforts continued on fraud reporting in line with the own resources database (OWNRES) requirements. Implementing legislation concerning compulsory enforcement on movable and immovable property is under preparation in line with the provisions of the Law on tax administration. On the collection of customs debt, instructions for writing-off of customs debt have yet to be finalised in conformity with the new Customs law adopted in July 2022.

**On value added tax-based resource**, in December 2021, further amendments to the value added tax (VAT) law led to a reduction in trade taxation of food and beverages, with the exception of alcoholic beverages, carbonated soft beverages containing added sugar and



coffee. However, further alignment of the VAT law with the EU *acquis* remains necessary.

**On gross national income-based resources**, Montenegro's gross domestic product (GDP) is calculated using the European system of national and regional accounts (ESA) 2010 methodology. Gross national income (GNI) data are available since 2010 and are published on the website of the Statistical Office of Montenegro. Sustained efforts are still needed as regards the exhaustiveness of the national accounts and GDP/GNI calculations.

As regards **administrative infrastructure**, the Directorate for coordination and management of own resources of the EU within the Ministry of Finance is gradually improving its capacities focusing on planning, coordination and calculation of own resources, better definition of internal procedures and instructions, as well as alignment with the EU own resources administrative conditions. The implementation of the 2019 own resources action plan is ongoing, with the last annual progress report adopted by the Government in June 2022. An Action Plan for addressing the key recommendations from the European Commission's Montenegro 2021 report was adopted in December 2021. An EU funded project supporting the establishment of Montenegro's management system of EU own resources started in May 2022.

#### **CLUSTER 6: EXTERNAL RELATIONS**

There are two chapters in this cluster: namely, chapter 30-external relations, which was provisionally closed in June 2017, and chapter 31-foreign, security and defence policy, where the single closing benchmark (concerning Montenegro's bilateral immunity agreement with the United States) has yet to be fulfilled.

Montenegro continues full alignment with the EU's Common Foreign and Security policy including with the EU restrictive measures following Russia's unprovoked aggression against Ukraine, as well as coordinating its positions with those of the EU, including within the WTO, and maintains good cooperation with international organisations.

Progress can be noted on the adoption of the law on export control of dual-use goods, in line with the EU *acquis*, and the ratification of CEFTA Additional Protocol 6. Montenegro is invited to continue legislative alignment where necessary, and is also encouraged to implement actions under the Common Regional Market, based on the EU rules. Montenegro is encouraged to continue its full alignment with all EU CFSP positions and declarations. The alignment with the EU common positions on the integrity of the Rome Statute would allow the provisional closure of the remaining chapter under this cluster.

#### **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 achieved a **good level of preparation**. **Good progress** was achieved in the past year, with the adoption of the law on export control of dual-use goods, in line with the EU *acquis*, and the ratification of CEFTA Additional Protocol 6 (AP 6) on trade in services. Amendments to the country's legal and institutional framework on development and humanitarian aid are in preparation.

In the coming year, Montenegro should in particular:

→ continue to actively participate in the implementation of actions in the context of the Common Regional Market Action Plan 2021-2024 and in particular ensure constructive participation in the negotiations on CEFTA AP 7 on dispute settlement, and its swift

ratification and start implementing CEFTA AP 6 on trade in services;

→ Adopt amendments to the Laws on international development cooperation and international humanitarian assistance.

In November 2021, the government adopted a roadmap for fulfilling the remaining obligations related to chapter 30. The document identifies key challenges for 2022 and 2023 and addresses last year's recommendations. It also identifies horizontal links with other chapters and thematic clusters, in line with the revised enlargement methodology.

On the **common commercial policy**, Montenegro continued to coordinate its positions with those of the EU, including in the WTO. In this context, in March 2022, Montenegro supported notably the Joint Statement on aggression by the Russian Federation against Ukraine with the support of Belarus.

The Law on export control of dual-use goods was adopted in December 2021 and has been applied since January 2022. It contains most of the provisions of the latest EU Regulation from May 2021, leaving out certain parts that could be applied only once Montenegro joins the EU. This was complemented by the adoption of the national control list of dual-use goods in March 2022, aligned with the latest EU list. Earlier, in June 2021, the government amended its control list for export and import of goods, aligning it with the EU control list of 2019. Montenegro's application process to join the Wassenaar Arrangement is still ongoing. The application for membership in the Australia Group is under preparation.

Following the decision to involve the European Investment Bank in the development of the implementing legislation on export credit insurance against non-market risks, the timeline for the adoption shifted to the last quarter of 2022. This piece of legislation follows the adoption of the Law on the investment and development fund, which regulates the issuing and financing of export credits.

Montenegro continues to participate actively in CEFTA working groups, including in negotiations on CEFTA AP 7 on trade dispute settlement, and fulfils its commitments within the Common Regional Market. In December 2021, the parliament ratified CEFTA AP 6 on trade in services.

In July 2021, the government adopted a new Montenegrin Bilateral Investment Treaty model that will serve as a basis for future treaties. The Common Regional Market action plan specifies that each partner needs to negotiate economy-specific International Investment Agreements (IIAs) based on the Regionally Accepted Standards for IIA negotiations. Montenegro has 24 bilateral investment treaties currently in force, more than half with the EU member states.

Concerning **bilateral trade agreements**, in December 2021 the parliament ratified a Free Trade Agreement (FTA) with EFTA countries on the rules of origin related to the revised Pan-Euro-Mediterranean (PEM) Convention. In December 2021, the parliament also ratified amendments to the FTA with Türkiye, aimed to ensure additional liberalisation of trade in agricultural products and access to the services market. The government initiated amendments to the FTA with Ukraine concerning rules of origin and methods of administrative cooperation.

Negotiations for an Agreement on Trade, Partnership and Cooperation between Montenegro and the United Kingdom of Great Britain and Northern Ireland are ongoing. Montenegro should avoid any violation of its obligations arising from the Stabilisation and Association Agreement.

On **development policy and humanitarian aid**, amendments to the Law on international development cooperation and international humanitarian assistance are being prepared, with the aim to improve the country's legal and institutional framework in these areas. A database on donor support projects that would use the OECD Development Assistance Committee methodology remains to be developed.

Montenegro should continue working on this chapter in accordance with its overall action plan on external relations.

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

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

Concerning EU foreign, security and defence policy, Montenegro has a **good level of preparation**. **Good progress** was made as the country continued its track-record of full alignment with the EU CFSP, including with the EU restrictive measures following Russia's unprovoked aggression against Ukraine, as well as on Belarus, and has provided assistance to Ukraine. Montenegro needs to align with EU common positions on the integrity of the Rome Statute and related EU guiding principles on bilateral immunity agreements. As a Member of the Human Rights Council, Montenegro has been actively engaged in promoting and defending the rules-based international order.

In the coming year, Montenegro should:

- maintain its full alignment with the EU foreign, security and defence policy
- adopt the strategy on countering hybrid threats and related action plan.

The **political dialogue** between the EU and Montenegro on foreign and security policy issues continued, including through Montenegro's active engagement in the EU-Western Balkans informal CFSP Dialogue at political directors' level.

On **common foreign and security policy**, 100% alignment with all relevant High Representative statements on behalf of the EU, and Council decisions continued, a strong signal of Montenegro's strategic commitment to the EU path. This included all EU sanction packages against Russia and Belarus.

Montenegro also aligned with the EU position in UNGA when voting on resolutions regarding Russia's aggression against Ukraine and its humanitarian impact. Montenegro voted for suspension of the Russian Federation in the UN Human Rights Council.

In March 2022, the caretaker government adopted three decisions on the practical implementation of restrictive measures against Russia and established a coordination body that should monitor the implementation of international measures on the crisis in Ukraine. The implementation of those decisions is ongoing, including the identification and temporary confiscation of 44 properties owned by 34 Russian citizens in several municipalities of Montenegro.

The country maintains a bilateral immunity agreement with the United States, granting US citizens exemptions from the jurisdiction of the International Criminal Court. In doing so, the country does not comply with the EU common positions on the integrity of the Rome Statute or related EU guiding principles on bilateral immunity agreements. Alignment with the EU position is therefore needed.

Concerning **conflict prevention**, Montenegro remained actively engaged in the implementation of the Western Balkans SALW (Small Arms and Light Weapons) Roadmap and implemented its 2019-2025 strategy and action plan for combating illegal possession, misuse and trafficking of SALW.

Regarding **non-proliferation**, Montenegro is a state party to 29 international agreements in the field of CBRN and proliferation threats and risks. It is member to the Arms Trade Treaty, and has an active application for membership in the Wassenaar Arrangement. The country also expressed an interest to join the Australian Group regime. During the reporting period, the authorities finalised the draft roadmap for the period 2022-2027 to encompass measures addressing CBRN (chemical, biological, radiological and nuclear) threats and risks, as well as measures for the implementation of UNSC Resolution 1540.

On **security and defence**, the implementation of the Defence Strategy adopted in 2019 and related action plan continued.

Montenegro continued successful **cooperation with international organisations** (UN, OSCE, and Council of Europe) and remained an active member in **NATO missions**, including in NATO KFOR in Kosovo and NATO NMI in Iraq. It continued to contribute to NATO presence on the Eastern flank by participating in enhanced Forward Presence (eFP). In the framework of NATO co-operation, in March 2022, Montenegro provided assistance to Ukraine with 300 ballistic vests, 500 helmets and 7,000 dry meal packages. Montenegro took active part in various NATO exercises and trainings.

Montenegro continued participation in **EU crisis management missions and operations** under the common security and defence policy, namely in the EU NAVFOR ATALANTA and the EU Training Mission (EUTM) in Mali, as well as in the UN peacekeeping operation MINURSO.

Regarding **hybrid threats**, Montenegro completed the EU's hybrid risk survey with the objective of identifying systemic vulnerabilities and streamlining the assistance provided by the EU in this field. Montenegro maintained active participation in the European Centre of Excellence for Countering Hybrid Threats. Adoption of the strategy on countering hybrid threats and related action plan is still pending. Active response to enhancing cyber resilience against malicious behaviour in cyberspace is called for given the cyber-attack experienced in autumn 2022.

## ANNEX I – RELATIONS BETWEEN THE EU AND MONTENEGRO

Within the framework of the **accession negotiations**, by October 2022, all 33 screened chapters, including chapters 23 and 24 on the rule of law, had been opened, three of which, i.e. science and research, education and culture and external relations, have been provisionally closed.

Montenegro is participating in the **Stabilisation and Association Process**. Overall, Montenegro continued to broadly implement its obligations under the **Stabilisation and Association Agreement (SAA)**. Regular political and economic dialogue between the EU and Montenegro has continued through the SAA structures. Regular subcommittee meetings were held throughout the period. The Stabilisation and Association Committee met in January 2022 and the SA Council in July 2022. The Stabilisation and Association Parliamentary Committee met in December 2021.

Montenegro participates in the ministerial dialogue between the economic and finance ministers of the EU and the candidate countries, which aims at helping the latter to 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 24 May 2022.

**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 Commission's August 2021 fourth report under the visa suspension mechanism concluded that Montenegro continues to meet the visa liberalisation benchmarks. A **readmission agreement** between the European Union and Montenegro has been in force since 2008.

Under the Instrument for Pre-accession Assistance 2021 – 2027 (IPA III), a first financing decision of EUR 32.41 million was adopted at the end of 2021, providing support for EU accession and post-COVID-19 recovery, and enhancing the country's reforms in the areas of agriculture, the protection of the environment, transport and support to the reform of the country's economic governance and investment planning. This first set of programmes, complemented by a significant package of multi-country programmes and the rural development programme IPARD III, provide a significant contribution to kick-start the implementation of the Economic and Investment Plan for the Western Balkans and the Green and Digital Agendas.

New activities will build on and add to the on-going programmes under IPA II (2014-2020), which are still providing significant support for the social and economic development of the country and contributing to key reforms in the Rule of Law, Public Administration Reform and other sectors. Montenegro also benefits from dedicated EU support aimed at protecting the environment and boosting connectivity with EU transport systems. In addition, by the end of 2021 the specially devised COVID-19 response Budget Support programme finalised its important support to the authorities' social and economic response to the crisis.

Montenegro continues to benefit from support under the IPA multi-country and regional programmes. These programmes have been also, in part, repurposed to address the response to the COVID-19 crisis. Additionally, Montenegro participates 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 benefitted under IPA II from participation in the following Union programmes, with IPA support: Erasmus+, Creative Europe (Culture and Media strands), Europe for Citizens, ISA - Interoperability solutions for public administrations, businesses and citizens, Employment and Social Innovation, Horizon 2020, Customs 2020, Fiscalis 2020, Competitiveness of Enterprises and Small and Medium-Sized Enterprises Programme (COSME). Montenegro also participates with their own funds in the EU Justice Programme. The full list of programmes for IPA III has not yet been defined.

The Commission set aside EUR 70 million in grants from IPA II for the Western Balkan partners to obtain COVID-19 vaccines as well as equipment and supplies for the implementation of the vaccination campaigns. Montenegro received EUR 2.453 million of these funds. A total of 573 220 doses of COVID-19 vaccines were provided to Montenegro through resales and donations of EU Member States and direct EU funded purchases from vaccine suppliers. Montenegro also received 48 000 COVID-19 vaccines via the COVAX initiative, which is significantly supported by the EU.

**STATISTICAL DATA (as of 01.09.2022)**

Montenegro

	Note	2009	2016	2017	2018	2019	2020
<b>Basic data</b>							
Population (thousand)		617 s	622 s	622 s	622 s	622 s	622 s
Total area of the country (km <sup>2</sup> )		13 812 w	13 812 w	13 812 w	13 812 w	:	:
<b>National accounts</b>	Note	2009	2016	2017	2018	2019	2020
Gross domestic product (GDP) (million euro)		2 994	3 954	4 299	4 663	4 951	4 186
GDP (euro per capita)		4 840	6 350	6 910	7 490	7 900	6 740
GDP per capita (in purchasing power standards (PPS))		9 832	12 637	13 516	14 590	15 696	13 356
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		40.9	44.8	46.1	48.2	50.1	44.6
Real GDP growth rate: change on previous year of GDP volume (%)		- 5.8	2.9	4.7	5.1	4.1	- 15.3
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 (2015 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		10.0	9.0	8.4	8.2	7.9	9.1
Industry (%)		14.3	12.2	11.3	12.5	11.9	13.5
Construction (%)		6.6	6.7	6.9	7.0	7.9	7.3
Services (%)		69.2 s	72.0 s	73.5 s	72.4 s	72.2 s	70.0 s
Final consumption expenditure, as a share of GDP (%)		103.8	96.4	93.2	91.9	89.2	103.8
Gross fixed capital formation, as a share of GDP (%)		27.3	24.7	26.9	29.2	27.3	27.9
Changes in inventories, as a share of GDP (%)		- 0.4	1.4	3.3	2.7	4.7	3.3
Exports of goods and services, relative to GDP (%)		34.3	40.6	41.1	42.9	43.8	26.0

	2009	2016	2017	2018	2019	2020	
Imports of goods and services, relative to GDP (%)	65.1	63.1	64.5	66.7	65.0	61.0	
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)	:	:	:	:	:	:	
<b>Business</b>							
Industrial production volume index (2015 = 100)	Note	2009	2016	2017	2018	2019	2020
Number of active enterprises (number)		96.7	97.0	92.9	113.7	106.7	105.6
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	:	:	:	:	:
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	13.1 w	7.1 w	11.2 w	11.2 w	8.5 w
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		:	6.1 w	5.4 w	4.8 w	3.3 w	4.7 w
Value added by SMEs (in the non-financial business economy) (EUR million)		:	:	:	:	:	:
Total value added (in the non-financial business economy) (EUR million)		:	1 530 w	1 780 w	2 021 w	2 205 w	1 819 w

	2009	2016	2017	2018	2019	2020	
<b>Inflation rate and house prices</b>							
Consumer price index (CPI), change relative to the previous year (%)	Note	2009	2016	2017	2018	2019	2020
**Annual change in the deflated house price index (2015 = 100)		:	0.1 w	2.8 w	2.9 w	0.5 w	- 0.8 w

	2009	2016	2017	2018	2019	2020	
<b>Balance of payments</b>							
Balance of payments: current account total (million euro)	Note	2009	2016	2017	2018	2019	2020
Balance of payments current account: trade balance (million euro)		:	- 642.0	- 692.0	- 793.0	- 707.0	- 1 091.0
Balance of payments current account: net services (million euro)		:	- 1 658.0	- 1 860.0	- 2 050.0	- 2 065.0	- 1 643.0
Balance of payments current account: net primary income (million euro)		:	771.0	852.0	935.0	1 019.0	176.0
Balance of payments current account: net balance for secondary income (million euro)		:	34.0	89.0	55.0	56.0	66.0
Balance of payments current account: net balance for primary income (million euro)		:	213.0	229.0	265.0	284.0	308.0
Net balance for primary and secondary income: of which government transfers (million euro)		:	26.0	22.0	34.0	49.0	51.0
**3 year backward moving average of the current account balance relative to GDP (%)		:	- 13.2	- 14.4	- 16.4	- 15.8	- 19.1
**Five year change in share of world exports of goods and services (%)		:	:	:	19.2	27.2	- 31.2
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		1 068.5 w	372.0 s	484.0 s	323.0 s	345.0 s	467.5 w



	2009	2010	2017	2018	2019	2020
Foreign direct investment (FDI) abroad (million euro)	32.9 w	- 167.0	10.0	92.0	67.0	- 4.5 w
of which FDI of the reporting economy in the EU-27 countries (million euro)	:	- 4.6 w	- 4.6 w	78.0	1.0	- 2.0 w
Foreign direct investment (FDI) in the reporting economy (million euro)	1 089.4 w	205.0	494.0	415.0	412.0	463.0 w
of which FDI of the EU-27 countries in the reporting economy (million euro)	:	- 44.0 w	161.4 w	19.0	41.0	90.9 w
**Net international investment position, relative to GDP (%)	:	- 177.4 w	- 170.1 w	- 168.5 w	- 167.9 w	- 206.2 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)	1)	2.1 sw	4.8 s	4.9 s	4.8 s	6.3 s

#### Public finance

	2009	2010	2017	2018	2019	2020
General government deficit / surplus, relative to GDP (%)	- 5.7 w	- 2.8 w	- 5.7 w	- 4.6 w	- 2.0 w	- 10.7 ew
General government gross debt relative to GDP (%)	38.1 w	64.4 w	64.2 w	70.1 ew	76.5 w	103.1 w
Total government revenues, as a percentage of GDP (%)	45.4 w	42.6 w	41.5 w	42.2 w	43.4 w	43.7 ew
Total government expenditure, as a percentage of GDP (%)	51.1 w	48.2 w	46.8 w	46.2 w	45.4 w	54.4 ew

#### Financial indicators

	2009	2010	2017	2018	2019	2020
Gross external debt of the whole economy, relative to GDP (%)	:	162.6 s	160.6 s	164.7 s	169.0 sw	224.1 sw
Gross external debt of the whole economy, relative to total exports (%)	:	401.0 w	392.2 w	381.7 w	365.5 w	662.2 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	:	:	:	:	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	:	:	:	:	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)	:	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)	2)	2 373.4 w	2 294.1 w	2 528.0 w	2 727.3 w	2 841.0 w
**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 (%)	3)	9.38 w	7.45 w	6.81 w	6.01 w	5.84 w
Deposit interest rate (one year), per annum (%)	3)	3.87 w	0.93 w	0.69 w	0.56 w	0.40 w
Euro exchange rates: average of period (1 euro = ... national currency)	:	1 w	1 w	1 w	1 w	:

	2009	2016	2017	2018	2019	2020
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)	:	:	:	:	:	:
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)	:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)	397.5 w	752.7 w	847.1 w	1 049.8 w	1 366.8 w	1 738.5 w

	2009	2016	2017	2018	2019	2020
<b>External trade in goods</b>	Note					
Value of imports: all goods, all partners (million euro)	1 654	2 062	2 304	2 554	2 601	2 105
Value of exports: all goods, all partners (million euro)	277	328	372	400	416	366
Trade balance: all goods, all partners (million euro)	- 1 377	- 1 736	- 1 932	- 2 154	- 2 185	- 1 739
Terms of trade (export price index / import price index * 100) (number)	:	98.0 sw	103.3 sw	100.7 sw	99.1 sw	102.7 sw
Share of exports to EU-27 countries in value of total exports (%)	50.9 s	36.6 s	33.3 s	43.1 s	37.0 s	37.7 s
Share of imports from EU-27 countries in value of total imports (%)	41.3 s	47.4 s	46.5 s	47.1 s	47.0 s	44.2 s

	2009	2016	2017	2018	2019	2020
<b>Demography</b>	Note					
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)	4.5	1.8	1.5	1.2	1.0	- 0.3
Infant mortality rate deaths of children under one year of age (per thousand live births)	5.7	3.4	1.3	1.7	2.4	2.8
Life expectancy at birth: male (years)	72.9	74.1	73.9	74.5	74.0	73.2
Life expectancy at birth: female (years)	77.5	78.9	79.2	79.3	79.5	78.6

	2009	2016	2017	2018	2019	2020
<b>Labour market</b>	Note					
Economic activity rate for persons aged 20-64: proportion of the population aged 20-64 that is economically active (%)	:	69.1	69.3	70.5	71.8	67.2
*Employment rate for persons aged 20-64: proportion of the population aged 20-64 that are in employment (%)	:	57.1	56.2	59.8	60.8	55.2
Male employment rate for persons aged 20-64 (%)	:	63.0	65.2	66.7	67.5	61.7
Female employment rate for persons aged 20-64 (%)	:	51.3	51.4	52.9	54.2	48.8
Employment rate for persons aged 55-64: proportion of the population aged 55-64 that are in employment (%)	:	41.2	43.7	46.6	50.1	44.2
Employment by main sectors						

Agriculture, forestry and fisheries (%)	:	7.8 s	7.9 s	8.0 s	7.1 s	7.5 s
Industry (%)	:	9.9 s	9.5 s	9.9 s	9.5 s	10.1 s
Construction (%)	:	7.7 s	7.6 s	9.0 s	9.9 s	8.3 s
Services (%)	:	73.8 s	74.1 s	72.5 s	73.1 s	73.5 s
People employed in the public sector as a share of total employment, persons aged 20-64 (%)	4)	35.7 w	31.2 w	31.7 w	29.3 w	30.5 w
People employed in the private sector as a share of total employment, persons aged 20-64 (%)	5) 6)	46.9 w	47.5 w	63.9 bw	66.5 w	65.6 w
Unemployment rate: proportion of the labour force that is unemployed (%)	:	17.8	16.1	15.2	15.2	17.9
Male unemployment rate (%)	:	18.3	15.4	15.3	14.7	17.5
Female unemployment rate (%)	:	17.1	17.0	15.1	15.7	18.4
Youth unemployment rate: proportion of the labour force aged 15-24 that is unemployed (%)	:	35.9	31.7	29.4	25.2	36.0
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)	:	13.4	12.5	11.4	12.0	13.4
Unemployment rate for persons (aged 25-64) having completed at most lower secondary education (ISCED levels 0-2) (%)	:	22.1	21.7	21.0	26.9	35.2
Unemployment rate for persons (aged 25-64) having completed tertiary education (ISCED levels 5-8) (%)	:	11.5	10.7	10.0	11.0	12.0

Social cohesion	Note	2009	2016	2017	2018	2019	2020
Average nominal monthly wages and salaries (national currency)		416 w	499 w	510 w	511 w	515 w	524 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		103 w	100 w	100 w	98 w	98 w	100 w
GINI coefficient		:	37	37	35	34	33
Poverty gap		:	35.6	34.0	35.3	33.1	28.2
*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 (%)		7.0 w	5.5	5.4	4.6	5.0	3.6

Standard of living	Note	2009	2016	2017	2018	2019	2020
Number of passenger cars relative to population size (number per thousand population)		289.9 sw	297.0	310.0	332.0	350.0	337.9 sw

	2009	2016	2017	2018	2019	2020
Number of mobile phone subscriptions relative to population size (number per thousand population)	2 496.5 w	1 632.5 w	1 636.7 w	1 822.8 w	1 849.9 w	1 736.8 w
Mobile broadband penetration (per 100 inhabitants)	3.2 w	8.9 w	10.5 w	8.8 w	8.0 w	7.7 w
Fixed broadband penetration (per 100 inhabitants)	8 w	19 w	22 w	25 w	29 w	30 w

#### Infrastructure

Note	2009	2016	2017	2018	2019	2020
Density of railway network (lines in operation per thousand km <sup>2</sup> )	18.1 sw	18.0 s	18.0 s	18.0 s	18.0 s	:
Length of motorways (kilometres)	z	z	z	z	z	z

#### Innovation and research

Note	2009	2016	2017	2018	2019	2020
Public expenditure on education relative to GDP (%)	:	:	:	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)	1.12 sw	0.32	0.35	0.50	0.36 sw	:
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)	:	:	:	:	:	:
Percentage of households who have internet access at home (%)	:	:	71.0	72.0	74.0	80.0

#### Environment

Note	2009	2016	2017	2018	2019	2020
*Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)	58.0 w	61.2 w	62.9 w	67.1 w	64.7 w	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)	296.7	263.1	263.3	259.5	258.2	280.3
Electricity generated from renewable sources relative to gross electricity consumption (%)	48.6	51.0	50.1	52.4	53.6	61.5
Road share of inland freight transport (based on tonne-km) (%)	64.1 w	58.5 w	39.0 w	55.7 w	45.4 w	41.8 w

#### Energy

Note	2009	2016	2017	2018	2019	2020
Primary production of all energy products (thousand TOE)	549	662	624	728	736	726
Primary production of crude oil (thousand TOE)	0	0	0	0	0	0
Primary production of solid fuels (thousand TOE)	211	317	335	362	396	400
Primary production of gas (thousand TOE)	0	0	0	0	0	0
Net imports of all energy products (thousand TOE)	415 s	342 s	420 s	334 s	365 s	280 s

Gross inland energy consumption (thousand TOE)		965	990	1 037	1 074	1 112	1 023
Gross electricity generation (GWh)		2 760	3 141	2 483	3 811	3 433	3 381

Agriculture	Note	2009	2016	2017	2018	2019	2020
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)		221.5	255.9 p	256.4 p	256.8 p	257.5 p	258.0 p
Livestock numbers: live bovine animals (thousand heads, end of period)		:	89.0 p	87.0 p	83.3 p	81.4 p	:
Livestock numbers: live swine (thousand heads, end of period)		:	55.0 p	25.0 p	23.6 p	23.0 p	:
Livestock numbers: live sheep and live goats (thousand heads, end of period)		:	223.0 ps	216.0 ps	216.0 ps	210.8 ps	:
Raw milk available on farms (thousand tonnes)		:	180.6 p	181.4 p	181.5 p	178.0 p	:
Harvested crop production: cereals (including rice) (thousand tonnes)		4.3	7.7 p	7.9 p	8.0 p	7.6 p	7.3 p
Harvested crop production: sugar beet (thousand tonnes)		0.0	0.0	0.0	0.0	0.0	0.0
Harvested crop production: vegetables (thousand tonnes)		30.0	41.8 p	41.2 p	42.3 p	40.1 p	39.4 p

Source: Eurostat and the statistical authorities in Montenegro

: = not available

b = break in series

e = estimated value

p = provisional

s = Eurostat estimate

w = data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

z = not applicable and therefore equal to 0

\* = Europe 2020 indicator

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

Footnotes:

1) Data are in accordance with the IMF Balance of Payments Manual, fifth edition.