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**Montenegro 2021 Report**

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European Economic and Social Committee and the Committee of the Regions**

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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 focusing on: fundamental reforms, stronger political steer, increased dynamism and predictability of the process. Montenegro continued to broadly 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 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 will be key to achieve further progress in the negotiations overall, no further chapters will be provisionally closed before this milestone is reached.

The political commitment of the Montenegrin authorities to the strategic goal of European integration has been consistently stated as the key priority for the country during a rather challenging reporting period as the COVID-19 pandemic continued throughout the period. By September 2021, Montenegro had recorded around 131,500 cases and about 1940 deaths related to the pandemic, around 33% of the population had been fully vaccinated. Though the final extent of impact in terms of loss of human lives and damage to the economies is still difficult to assess, it is clear that the necessary restrictions imposed in the context of the pandemic took a heavy toll, notably on tourism-dependent economy of Montenegro, which is the worst affected country in the region. The EU continued to provide essential and unparalleled support. This includes financial support: a substantial package of EUR 53 Million of non-repayable financial aid and EUR 60 Million of favourable loans as macro-financial assistance to address the immediate health crisis, in addition to delivering vast quantities of health supplies and equipment, as well as EUR 200,000 allocation under the EU Solidarity Fund. The EU and its Member States have also supported the country's vaccination campaign by providing over 262,000 doses by early September, which is a sign of concrete EU solidarity.

### 1.2. SUMMARY OF THE REPORT<sup>1 2</sup>

Concerning the **political criteria**, the reporting period was marked by tensions and mistrust between political actors. The deep polarisation between the new ruling majority and the opposition persisted throughout 2020 and intensified in the post-election period. Heated relations and mistrust fed frequent escalations and further exacerbated political divisions, including within the ruling majority. The Parliamentary elections resulted in a change of the

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<sup>1</sup> This report covers the period from June 2020 to June 2021. 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 in the area of rule of law.

<sup>2</sup> For the state of play the report uses the following assessment scales: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. For progress made during the reporting period, the following scale has been used: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, also interim steps have been used.

ruling coalition and transformed the dynamics between organs of the state and demonstrated a need to find a balance in the new political landscape, including on questions concerning religious communities and ethnicity, which dominated the political agenda during the reporting period. Friction between the executive and legislative powers has slowed down reform work. In December 2020, Parliament elected the 42<sup>nd</sup> government of Montenegro, the number of ministries was substantially reduced. It is the first government in Montenegro composed mostly of non-politically affiliated experts.

In its final report on the 2020 Parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) limited election observation mission recommended a comprehensive reform to harmonise the electoral legal framework and regulate all key aspects of elections, through an inclusive process, well in advance of the next elections. In December 2020, the Parliament established the committee on comprehensive electoral reform, tasked to deliver legislative reforms by the end of 2021. Progress has been slow due to initial delays and periodic boycotts. Parliament dismissed the President of the State Electoral Commission (SEC) in June 2021, appointment of a new President is still pending in the Parliament. Continued efforts are needed to enhance professionalism, transparency and accountability of the SEC.

In 2021, local elections took place in two municipalities. Despite cross-party agreement to hold all local elections on the same day, the legal framework still provides for their conduct on a rolling basis, leading to nearly constant pre-electoral campaigning at national and local level. A credible, independent and effective institutional response to the so-called ‘envelope affair’ remains to be ensured.

The lack of constructive engagement of all parliamentary actors prevented a meaningful political dialogue, further polarising the political landscape. The boycott of plenary sessions by majority of MPs, from the opposition and the ruling majority caused a suspension of decision-making in Parliament in 2021. Parliament improved the transparency of its work, communicating with the public and stepped up its legislative and oversight role overall.

The ruling majority frequently initiated or passed legislation through the fast-track procedure, without necessary public consultations and without duly taking into account EU accession requirements. Parliament is yet to demonstrate in practice its commitment to Montenegro's EU reform agenda and improve coordination with the government on legislative initiatives. Parliament should strengthen the professional and expert capacity of its administrative staff and improve women's political representation.

The composition of the current Parliament is unprecedented in Montenegro's history. It should endeavour to find a broad cross-party and societal consensus on EU-related reforms, which is vital for the country to make progress on its EU path. It is clear that active and constructive participation by all parties is required to enhance parliamentary accountability, oversight of the executive, democratic scrutiny, to improve the quality of legislation and for key appointments. So far, the Parliament was not able to secure the required 2/3 majority for important judicial appointments and therefore key functions of the judicial system are still filled on acting bases.

As regards **governance**, there is a need to strengthen stakeholders' participation, and the government's capacity to implement reforms. In December 2020, Parliament elected the 42<sup>nd</sup> government of Montenegro. The number of ministries was reduced to 12; women head four of them. The new government composition is the first expert government in Montenegro, only the position of Deputy Prime Minister is held by a political party leader. The government also adopted a new national programme for EU accession for the period 2021-2023. The negotiation structure was substantially weakened by the resignation or dismissal of 110 of its

members, including 16 chapter negotiators and 24 heads of working groups. Most of these key positions remain vacant. Some key ministries failed to show sufficient commitment and constructive engagement in the EU accession process under their new leadership.

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

Montenegro is moderately prepared on the reform of its **public administration**. Overall, limited progress was made in the reporting period. The change of government and of the parliamentary majority severely affected the civil service: amendments to the Law on Civil Servants and State Employees lowered the requirements for competence, independence and merit-based recruitment of civil servants. Moreover, the recent reorganisations of public administration led to substantial staff changes, including at senior levels, jeopardising Montenegro's capacity to retain experienced staff in EU-accession process related matters in many sectors. Strong political will is needed to effectively depoliticise the public service, optimise the state administration and implement managerial accountability.

Montenegro remains moderately prepared to apply the EU *acquis* and European standards in the area of **judiciary and fundamental rights** and has made limited progress overall, with limited track record on accountability. No progress has been made in the area of the judiciary and the implementation of key judicial reforms is stagnating. The decisive political commitment needed to unblock important segments of those reforms is still outstanding, with a number of appointments to the judiciary remaining pending in Parliament due to the inability to secure a qualified majority. Despite a more proactive approach of the Anti-Corruption Agency, corruption remains prevalent in many areas and an issue of concern. On fundamental rights, Montenegro continued meeting obligations from international human rights instruments and legislation. However challenges remain in ensuring that national legislation on human rights is implemented effectively. There was limited progress in the area of freedom of expression.

Montenegro has achieved some level of preparation in the **fight against corruption**. It made limited progress, with last year's recommendations partially met with regard to further results on track records on repression and prevention of corruption and the efforts of the Anti-Corruption Agency to address its challenges. Track record on seizure and confiscation of assets needs to be further improved. The Anti-Corruption Agency (ACA) under new management demonstrated a more proactive approach, especially in stepping up its communication and outreach activities towards the general public, media and civil society and in addressing the caseload pending from previous years. Despite this positive trend, challenges related to Agency's independence, priority-setting, selective approach and the quality of its decisions remain and require sustained efforts in this respect. Corruption remains prevalent in many areas. There is a need for strong political will to effectively address this issue, as well as a robust criminal justice response to high-level corruption.

Montenegro has some level of preparation/is moderately prepared in the **fight against organised crime**. It made some progress in addressing last year's recommendations, in particular in improving access for law-enforcement agencies to key databases and increasing the number of investigators and experts in key areas. The number of organised crime cases investigated and prosecuted continued to grow, and the number of cases adjudicated at courts nearly tripled. International police cooperation is well established and continued to yield results, with unprecedented drug seizures abroad. However, the capacity to address tobacco smuggling and money laundering is not yet at the expected level. Montenegro still needs to

address some systemic deficiencies in its criminal justice system, including the way organised crime cases are handled in the courts.

On **fundamental rights**, Montenegro largely has the legislative and institutional framework in place and made some progress in meeting the obligations laid down in international human rights instruments and legislation. However, challenges remain in effective implementation. The efficiency of investigations into the excessive use of force by law-enforcement and hate crimes needs to improve further. Vulnerable groups, including Roma and Egyptians, and persons with disabilities continue to experience multiple forms of discrimination and difficulties in enforcing their rights in administrative and judicial proceedings. Women continue to experience inequality in participating in political and public life and accessing employment and economic opportunities. Gender-based violence and violence against children remain issues of serious concern. Incidents of ethnically and religiously motivated attacks, hate crimes and hate speech continued to rise. Montenegro has only partially addressed last year's recommendations. Access to justice, in particular for vulnerable groups remains to be improved. The amendments to the Law on Freedom of Religion of Belief were adopted after limited, and not fully inclusive, consultations with religious communities.

Montenegro has achieved some level of preparation in the area of **freedom of expression**. Overall, it made limited progress during the reporting period and only partially addressed last year's recommendations. There were some new developments on investigation into the 2018 shooting of an investigative journalist, but full and effective judicial follow-up both to this case and to other important old cases, remains to be ensured. In April 2021, the government established a new ad hoc commission for monitoring violence against the media, but it has not yet fully or effectively addressed the significant recommendations made by the previous commission. A revision of the legal framework is ongoing, to address the additional issues identified in the 2020 law on media and the law on public broadcaster RTCG, to complete it with a new law on audio-visual media, and ensure their full alignment with the EU *acquis* and European standards. More efforts are required to limit the effects of disinformation and on-line harassment and hate speech, while ensuring that such measures do not limit disproportionately freedom of expression. Parliament appointed the new RTCG Council in June 2021 without broad cross-party support. Following this change and the subsequent changes of RTCG management, the public broadcaster started to feature politically more diverse content. The media scene remains overall highly polarised, often marked by politically biased and unbalanced reporting, including extensive involvement of foreign media from the region, which was particularly notable during election periods. Self-regulatory mechanisms remain weak.

On the **economic criteria** Montenegro has made some progress and is moderately prepared in developing a **functioning market economy**. The country experienced a sharp recession in 2020 as the COVID-19 pandemic took a heavy toll on its tourism-dependent economy. This created large negative spill over effects on private consumption, investment, employment, trade and public finances. To support citizens and the economy, authorities implemented several economic support packages. These measures were, to a large extent, well targeted, transparent and of a temporary character. In spite of some delays due to the pandemic, the government continued implementing some of the envisaged reforms to improve the business environment. An orderly government transition in the middle of the crisis preserved the effectiveness of the COVID-19 policy response. The new government managed to mitigate fiscal risks by accumulating sizeable fiscal buffers to cover the 2021 financing needs, including for additional COVID-19 support programmes. The financial sector remained stable during the crisis, as a result of its strong pre-crisis position and the support measures

implemented by the authorities, but the delayed impact of the crisis on bank balance sheets calls for close monitoring of the financial institutions.

Montenegro has made some progress and is moderately prepared to **cope with competitive pressure and market forces within the EU**. The COVID-19 pandemic demonstrated that lack of diversification makes Montenegro's tourism-dependent economy highly vulnerable to shocks. Some efforts have been made to improve innovation capacities and to introduce EU standards at local companies thanks to public grants, but these remain modest given the scale of the challenge. The quality of the educational system and curricula preferences appear inadequate to raise human capital and address skill mismatches. Modern telecommunication and energy infrastructure is being deployed rapidly, but there is a substantial deficit in transport infrastructure, hindering integration with regional and EU markets. In addition, the low level of sophistication of domestic products, the small size of local companies and low level of participation in external markets represent major obstacles for increasing competitiveness and diversifying the economy.

With regard to **good neighbourly relations and regional cooperation**, Montenegro remained constructively committed to bilateral relations with other enlargement countries and neighbouring EU Member States, albeit bilateral relations with Serbia were marred by tensions, as nationalistic rhetoric increased. Montenegro is generally an active participant in regional cooperation.

Concerning Montenegro's **ability to assume the obligations of membership**, important work on alignment and preparation for the implementation of the EU *acquis* has taken place in many areas, albeit at a slower pace than previously.

The **internal market** cluster is key for Montenegro's preparations to meet the requirements of the EU's internal market and is of high relevance for possible early integration measures and the development of the Common Regional Market. Progress was achieved on market surveillance, accreditation and standardisation; electronic company registration legislative prerequisites; prevention of money laundering and terrorist financing; company law; state aid and aid transparency; banking; consumer and health protection. Montenegro should now focus on: alignment with the EU *acquis* governing metrology and standardisation, develop the operational capacity of the Employment Agency; regulated professions, capital movements and payments, including on the acquisition of property rights, phasing out its investor citizenship scheme; company law and corporate accounting; intellectual property; competition and State aid; consumer protection and health protection and on implementing the laws aligning with the capital requirements EU *acquis* in the banking sector.

The **competitiveness and inclusive growth** cluster has significant links to Montenegro's Economic Reform Programme. Progress was made on tobacco control; pensions; industrial policy, smart specialisation, vocational education and training, and trade facilitation. On economic and monetary policy, work to implement the action plan for alignment with the EU *acquis* is ongoing. Montenegro should now focus on: independence of the media sector; VAT, excise duties and direct taxation coordination of economic and monetary issues; labour law and the anti-discrimination law, safety at work; industrial policy, research and innovation, education and training and EU-compatible computerised transit system.

The **green agenda and sustainable connectivity** cluster has significant links to Montenegro's Economic Reform Programme, the Commission's Economic and Investment Plan and the Green Agenda for the Western Balkans. Progress was made in creating a day-ahead energy market; Transport Development Strategy, nature protection and the National Energy and Climate Plan. Montenegro should now focus on: the energy sector; trans-



European networks, telecommunications, TEN-T and TEN-E Regulations; green transition, waste management, water quality, nature protection and climate change.

**Resources, agriculture and cohesion** cluster comprises policies linked to EU Structural funds and Investment funds and developing the capacities to assume responsibilities of a future EU Member State. Progress was made in agriculture, food and fisheries, regional policy and structural instruments, financial and budgetary provisions and management of own resources. Montenegro should now focus on: implementation of the IPARD programme, agriculture and rural development as well as fisheries, upgrading food establishments and food safety controls, EU cohesion policy requirements, capacity for the handling of indirect management programmes in IPA and rules of administration for the own resources system.

On the **external relations** cluster, Montenegro continued to fully align with all EU CFSP positions, declarations and EU common positions. It also continued to implement actions under the common regional market based on EU rules, including through cooperation within CEFTA and the Regional Cooperation Council. Alignment to the integrity of the Rome Statute would allow the provisional closure of the remaining open chapter 31 under this cluster.

Strengthening the **administrative capacity** to apply the EU *acquis* remains an important challenge for Montenegro, including the urgent need to re-construct a functional negotiating structure.

On **migration**, both legal and irregular migration fell sharply in 2020 against the backdrop of the COVID-19 pandemic. The arrival of irregular migrants fell by 60% compared with 2019, with 3149 migrants apprehended in 2020. The Special Prosecutor's Office conducted two investigations into migrant smuggling in 2020. In one case, final convictions were issued against eight individuals. Although Montenegro's capacity to manage mixed migration flows and the integration of refugees is improving, sustained efforts are required in order for the country to cope with migratory pressure, by further increasing its reception capacity and raising standards in the reception centres. This will also include developing further its international cooperation on readmission, supporting the successful reintegration of returnees, increasing its capacity to prosecute migrant smuggling networks, and setting up a modern migrants' data collection system.

### 1.3 STATE OF PLAY OF THE ACCESSION NEGOTIATIONS

<b>CLUSTERS</b>	<b>Chapters / areas</b>	<b>Date chapter opened / closed with interim or closing benchmarks</b>
Fundamentals  <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 ...PAR	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	June 2017 December 2017 December 2017 ... June 2014

	6-Company Law 7-Intellectual property rights 8-Competition 9-Financial services 28-Consumer and health protection	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-Information society and media 16-Taxation 17-Economic and monetary policy 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, phytosanitary services 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

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

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

#### 2.1.1 Democracy

The August 2020 Parliamentary elections resulted in a change of the ruling coalition and transformed the dynamics between the executive and legislative powers, and demonstrated a need to find a balance in the new political landscape, including on questions concerning religious communities and ethnicity, which dominated the political agenda during the reporting period. The international election observers recommend a comprehensive reform to harmonise the electoral legal framework and regulate all key aspects of the elections, through an inclusive process, well in advance of the next elections. In December 2020, the Parliament elected the 42<sup>nd</sup> government of Montenegro, the number of ministries was substantially reduced and it is the first government in Montenegro composed mostly of non-politically affiliated experts.

#### Elections

In its final report on the 2020 parliamentary elections, OSCE Office for Democratic Institutions and Human Rights (ODIHR) limited election observation mission recommended a

comprehensive reform to harmonise the electoral legal framework and regulate all key aspects of the elections, through an inclusive process, well in advance of the next elections. In December 2020, the Parliament established the committee on comprehensive electoral reform, tasked to deliver legislative reforms by the end of 2021. Progress has been slow due to initial delays and periodic boycotts. In 2021, local elections took place in two municipalities. Despite cross-party agreement to hold all local elections on the same day, the legal framework still provides for their conduct on a rolling basis, leading to nearly constant pre-electoral campaigning at national and local level. A credible, independent and effective institutional response to the so-called ‘envelope affair’ remains to be ensured.

In December 2020, OSCE/ODIHR limited election observation mission (LEOM) published its final report on the 30 August 2020 parliamentary elections, identifying 23 recommendations to bring the electoral framework closer in line with OSCE commitments and other international obligations and standards for democratic elections. The mission concluded that the electoral legal framework provides sufficient regulations for democratic conduct of elections, but gaps, ambiguities and inconsistencies undermine legal certainty and allow for selective implementation. A number of previous 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 December 2020, the Parliament established a new Committee for a comprehensive electoral reform, with a mandate to propose legislative reforms first by end of June 2021, subsequently extended to end of 2021. In April 2021, following the nomination of all 14 ruling majority and opposition members, the committee initiated its work. In May 2021, three DPS MPs suspended their participation in the work of the Committee, remaining four opposition MPs left the Committee in June 2021. Three civil society organisations (CSOs) were invited to participate. Genuine inclusiveness, strong political commitment and willingness to find cross-party consensus would be needed for the Committee to deliver on its ambitious agenda. In addition to addressing outstanding OSCE/ODIHR recommendations, the committee has 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 has been 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).

According to OSCE/ODIHR LEOM final report, the 2020 elections were run overall transparently and efficiently, but the SEC did not properly fulfil its regulatory role. Important aspects, such as verification of supporting signatures for candidate registration, criteria for registration of the lists with national minority status and the tabulation of results remain to be addressed. New SEC members representing parliamentary political parties were appointed in January 2021.

Following the 2020 parliamentary and local elections in five municipalities (Andrijevica, Budva, Gusinje, Kotor and Tivat), 13 complaints were submitted, of which four were accepted and one partially accepted by the SEC. Completed complaint procedures did not reveal violations that would call into question the regularity of the election process. The OSCE/ODIHR final report notes that the right to file complaints limited to violations of voter’s own voting rights does not fully ensure right to an effective remedy and recommends extending the right of voters to file complaints on all aspects of the electoral process,

including the possibility to challenge election results. In 2021, local elections in the municipalities of Niksic and Herceg Novi took place on 14 March and 9 May, respectively. The electoral campaign for Niksic local elections was marked by reports of foreign interference.

No comprehensive audit to enhance public trust in the voter's registry, for example through conducting field tests, has been conducted. Allegations of double-registered voters in one or more countries of the region need to be thoroughly investigated by the competent authorities. In November 2020, the Constitutional Court ruled that the prescribed residential condition for exercising the right to vote in local elections of 'at least six months before the day of the elections' was unconstitutional and annulled the respective provision of the Law on elections of MPs and councillors.

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 'envelope affair' is still ongoing. In April and in June 2021, the Appellate court accepted the appeals of the Special State Prosecutor's Office, and revoked the decisions of the High Court in Podgorica to terminate criminal proceedings against an official from the previous ruling majority for money laundering.

## **Parliament**

The lack of constructive engagement of all parliamentary actors prevented a meaningful political dialogue, further polarising the political landscape. The boycott of plenary sessions by majority of MPs, from opposition and ruling majority caused a suspension of decision-making in the Parliament in 2021. The change of the ruling coalition transformed the dynamics between the executive and legislative powers. The Parliament enhanced transparency of its work, communicating with the public and stepped up its legislative and oversight role overall. However, the ruling parliamentary majority frequently initiated or passed legislation through fast-track procedure, without public consultations and without duly taking into account EU accession requirements, which hindered EU-related reform progress, risking reversing earlier achievements. The parliament is yet to demonstrate in practice its commitment to Montenegro's EU reform agenda and engage in constructive coordination with the government on related legislative initiatives. The parliament should engage in a transparent, decisive and inclusive dialogue on the implementation of OSCE/ODIHR outstanding recommendations and pending judicial appointments. It should also strengthen the professional and expert capacity of its administrative staff and improve women's political representation.

The 27<sup>th</sup> convocation of the Parliament was constituted on 23 September 2020. Parliament Speaker and two Vice-Speakers from the ruling majority were elected, along with the chairs and members of the 13 permanent working bodies and the Committee on monitoring and control of the privatisation process. The opposition is yet to nominate its candidate for a Deputy Speaker. Five coalitions and four political parties are represented in the new Parliament's composition where the ruling coalition holds a thin majority of 41/40. Out of 81 Members of Parliament (MPs), two operate as independent MPs, while five represent ethnic minority parties.

The polarisation between the new ruling majority and the opposition persisted throughout 2020 and intensified in the post-election period. Heated relations and mistrust fed frequent escalations and further exacerbation of political divisions, including within the ruling majority. Cross-party negotiations to reach the necessary qualified majority for the overdue appointment of the new Supreme State Prosecutor, four Judicial Council lay members and two judges of the Constitutional Court are yet to start. The State Election Council's decision

not to submit a report on filling a vacant MP mandate resulted in the Parliament's unilateral decision to validate an MP mandate. This decision led to eight Constitutional Court initiatives in January 2021 – three by the ruling majority and five by the opposition as well as to the opposition boycotting the work of parliamentary bodies.

As regards Parliament's **legislative role**, the opposition resumed its participation in the Parliament's work in March, however the biggest parliamentary opposition group announced a boycott again in May. Furthermore, a part of the biggest ruling majority parliamentary group announced a boycott of the plenary work of the Parliament in June 2021. This led to suspension of the decision-making process of the Parliament.

The periods of participation of all MPs in the plenary sessions and working bodies temporarily improved the quality of parliamentary debate. In 2020, the Parliament held 13 sittings and enacted 46 laws, while in the first half of 2021, Parliament held 12 sittings and enacted 22 laws. A number of important legislative initiatives, such as the amendments to the Law on civil servants and state employees, were proposed and passed by the ruling majority without adequate consultations with the government or ensuring alignment with the EU *acquis*, risking reversing earlier achievements, including on key rule of law reforms. Institutional coordination between the Parliament and the government on prioritising legislative initiatives pertaining to the EU reform agenda needs to be substantially improved, and agreed consultations need to be adhered to, regardless of the origin of initiatives. The Parliament's capacity to scrutinise proposed legislation for compliance with EU *acquis* is still limited.

Efforts were undertaken to improve **parliamentary oversight** of all governance branches, but effective control remains at early stage. In 2020, four special sessions of the Parliament were dedicated to MP questions to the Prime Minister's and his Cabinet. In the first six months of 2021, four question time sessions were organised. In 2020, 159 sessions of parliaments working bodies were organised, one control hearing and 22 consultative hearings were held. Since the beginning of 2021, nine control hearings and eight consultative hearing were organised by the competent parliamentary committees.

In 2021, the Parliament Speaker enacted an action plan containing 69 measures for strengthening the legislative and oversight function of the Parliament. A uniform and effective system is yet to be developed for monitoring the implementation of conclusions and recommendations adopted at oversight hearings. The findings of the State Audit Institution (SAI) continue to be addressed in a limited manner, and there is still no discussion or reporting on the implementation of major policies and legislation.

The Parliament improved the level of transparency and communication with the public. For the first time all sessions of the parliamentary working bodies are broadcasted live on the YouTube channel of the Parliament and the national public broadcaster RTCG launched a parliamentary channel dedicated to regular parliamentary work. The Parliament has re-designed its website, adapting it for blind and partially sighted people and now provides more user-friendly information to citizens. Persons with disabilities can now access the plenary hall. By the end of December 2020, the new convocation of the Parliament received 156 citizens' petitions, with 11 referring to legislative initiatives. Since November 2020, citizens can also submit petitions online through the Parliament's website.

No complaints from members of the public, media or interested parties alleging breaches of the **code of ethics** have been submitted to the human rights committee. In January 2021, the parliamentary administrative committee revoked the decision determining the criteria for MPs' justified absence from parliament's plenary and committee sittings, adopted in 2020.

Provisions prescribing fines for MPs were deleted by introducing amendments to the rules of procedure in 2021.

In July 2020, the amendments to the rulebook on organisation and systematisation of the Parliament's service were adopted, by the end of 2020 out of total 269 posts in the Parliament's service 198 were filled. Professional and expert capacity of the Parliament administrative staff should continue to be strengthened. The lack of available space in the Parliament for both service staff and MPs remains an issue. In March 2021, the Parliament elected its new Secretary General and two deputies.

In the reporting period, the Parliament did not agree to lift any MP's immunity, although, in February 2021, the Special State Prosecution Office requested waiving the immunity of two MPs (one from the ruling majority and one from the opposition). In February 2021, the Appellate Court annulled the first-instance verdict and ordered re-trial in the 'Coup d'état' case involving two ruling coalition leaders, including the chair of the parliamentary committee on security and defence. A criminal case involving one ruling coalition MP is currently ongoing in court.

The number of women MPs increased slightly from 18 to 22, now accounting for 27%. Women's involvement in political life remains limited: there are no women among the political party leaders and very few in the parties' leadership. Electoral lists satisfy only minimum requirements in terms of gender equality. The amendments to the rules of procedure of the Parliament introduced the obligation to have at least one Deputy Speaker elected among MPs of the less represented gender. Female MPs across the political spectrum formed the first Women's Club in the Parliament in 2020 and in December the first female Deputy Parliament Speaker was elected.

Shortcomings in the legal framework regulating **political parties** and their funding persist and the level of budgetary political party financing is still considerably above the European average (EUR 7.3 million in 2020). The Anti-Corruption Agency and the State Audit Institution monitor political party financing with limited results.

## **Governance**

In December 2020, the Parliament elected the 42<sup>nd</sup> government of Montenegro. The number of ministries was substantially reduced to 12; women head four of them. The new government composition is the first expert government in Montenegro, only the position of the Deputy Prime Minister is held by a political party leader. The government adopted the proposal of the Law on budget for 2021 and its annual work plan at the end of March 2021, and it was adopted by the Parliament on 17 June, when the parliament also dismissed the Minister of Justice and Minority Rights.

In December 2020, the government appointed a new Chief Negotiator for EU accession who also acts as a National IPA Coordinator. The report on the implementation of the national programme for EU accession for 2020, adopted in February 2021, outlines that out of 281 commitments in the EU accession process, 121 or 43% were fulfilled. Out of 142 laws and by-laws, 98 (69%) have been prepared and adopted, while out of 56 strategic documents, only 23 (41%) were completed. The government also adopted a new National Programme for EU accession for the period 2021-2023. The negotiation structure was substantially weakened by the resignation or dismissal of 110 of its members, including 16 chapter negotiators and 24 heads of working groups. Most of these key positions remain vacant. Some key ministries failed to show sufficient commitment and constructive engagement in the EU accession process under their new leadership. The government has continued to share information on the EU accession process in line with its public information strategy 2019-2022.

In 2020, the government adopted 40 draft laws. In the first six months of 2021, the government adopted 33 draft laws. Parliament's legislative initiatives gradually became the rule, weakening the government's role as a policy-maker. Public consultations organised by the executive continue to lack genuine and systematic inclusion of all relevant stakeholders.

All 12 ministries adopted rulebooks on internal organisation and systematisation. The government has established several ad-hoc advisory bodies, including the National Council for the fight against high-level corruption, the Council for control of the voter registry and the Council for privatisation and capital projects. The government also adopted decisions on establishing Councils for public administration reform, for competitiveness and for cyber security. These newly established bodies are yet to demonstrate concrete results.

By the end of June, the government held 29 sessions and frequently resorted to the procedural option of adopting decisions without holding a session, including a decision to issue government bonds worth EUR 750 million, to appoint acting Police Director, and to establish a new airline company. Some steps were taken to improve cooperation with the President, but functional cohabitation and coordination between the two branches of executive power remains to be improved.

In April 2020, the Parliament enacted the amendments to the Law on **local self-government** aligning it with the provisions of the Law on protection of the population from infectious diseases. New local governments were established in Budva, Kotor, Tivat, Andrijevica, Gusinje municipalities following the 30 August local elections, and in Niksic and Herceg Novi municipalities following the local elections held in the first half of 2021. New mayors were elected in the municipalities of Berane and Ulcinj. Women's political participation remains low at the local level, with only two out of 24 municipalities headed by a woman mayor.

### **Civil society**

The role of the civil society is recognised and promoted, however the current legal and institutional framework needs to be further improved to strengthen the consultation and cooperation mechanisms between state institutions and the civil society in the context of the EU accession process. Amendments to the Law on free access to information and a Law on volunteering have yet to be adopted. The Council for Cooperation of State Administration Bodies and Non-Governmental Organisations has yet to resume its work, suspended in October 2020. Although State funding rules to civil society organisations are in place, not all ministries have launched calls to award grants to CSOs. A stronger capacity of ministries in strategic planning, monitoring and evaluation of the support they provide to CSOs would enhance the quality of the cooperation between State bodies and the civil society.

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, went through a public consultation process, but remain to be adopted. However, information classified by public institutions and withheld from the public remains an issue, in practice restricting the access of civil society organisations (CSOs) and the public to key policy decisions. This concern needs to be addressed as a matter of priority. Montenegro has not adopted a law on volunteering, which would be needed to promote and regulate volunteer work in CSOs and hence increase their human resources.

The 2018-2020 strategy for improving the environment for NGOs has expired and needs to be replaced by a new one.

The role of civil society in the accession process is recognised and promoted at political level. In 2020, most of the ministries appointed CSOs members to the working groups in charge of drafting laws and State strategies in their respective areas, an obligation under the Law on public administration. However, not all ministries conduct public consultations when draft laws and strategies are prepared. When they do so, the consultations remain sometimes a formality, without real openness towards the views of civil society representatives. The public administration needs to improve the consultation mechanism with civil society.

As regards the 2018 controversial dismissals of prominent NGO representatives from key state institutions and regulatory bodies, their membership in the concerned bodies could not be legally restored, despite further courts decisions issued during the reporting period, establishing that they were unlawfully dismissed.

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 three meetings in 2020 but stopped its activities in October 2020, further to the change of government. New government members of the Council have yet to be appointed. Insufficient visibility and outreach to local CSOs in more remote areas have yet to be addressed.

The rules for public funding of CSOs provide for a minimum of 0.5 % of the state budget to be allocated to civil society. In 2020, this budget amounted to EUR 4.3 million, while the allocation for 2021 is EUR 4.6 million. Montenegro's legislation requires 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. However, in 2020 not all ministries have launched calls to award grants to CSOs, despite their legal obligation to do so. A new call for the selection of external evaluators was held to address concerns on the impartiality of the previous evaluators. The capacity of ministries to monitor and evaluate the projects implemented by CSOs remains to be strengthened.

CSOs can also access funds at local level, according to the law on local self-governments. However, the transparency of procedures still 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 in the reporting period. Some progress was made in areas such as medium-term policy planning, electronic government and public finance management as well as budget transparency. Public consultations were held on draft amendments to the Law on Access to Information, which, together with the new Public Administration Reform and Public Financial Management strategies, remain to be adopted. Amendments to the Law on Civil Servants and State Employees, adopted in January 2021 at the initiative of the Parliament, lowered the requirements for merit-based recruitment, competence and independence of civil servants. The impact of their practical implementation remains to be seen. Reorganisation of public administration led to substantial staff changes, losing experienced staff in EU accession process related matters. Strong political will is needed to effectively address depoliticisation of the public service, optimisation of the state administration and effective implementation of managerial accountability. Most of the recommendations from 2020 remain valid. The future approach to optimisation of the public administration remains to be defined by the government. In the coming year, Montenegro should in particular:

→ finalise, adopt and start implementing the new Public Administration Reform and Public Financial Management strategies in line with the national guidance for strategic planning



and its linkage with the mid-term budgetary framework;

- improve citizens' access to public information by finalising, adopting and start implementing amendments to the Law on access to information in line with the SIGMA principles of public administration;
- ensure effective lines of accountability between and within the institutions; ensure recruitments to all positions in the public administration according to the principles of merit, competence and transparency.

#### Strategic framework for public administration reform

A new **Public Administration Reform (PAR) Strategy 2022-2026** has yet to be finalised, pending consultations of all relevant stakeholders, and adopted. The new strategy is expected to improve the quality and efficiency of service delivery as well as optimisation of the public sector. In April 2021, the composition of the PAR Council was modified aiming to strengthen political support to PAR. Representatives of civil society and academia became members of the Council, and the Prime Minister took over the presiding role. With regard to financial sustainability, the reforms currently remain dependent on external donor funding. Legislative amendments in the PAR area were initiated and adopted by the Parliament without prior involvement of the competent ministry.

The **organisational set-up of the state administration** has not been fully aligned with the Law on State Administration. The reorganisation of the state administration conducted after the 2020 elections was made without sufficient ex-ante analysis or strategic approach.

The overall **quality of strategic documents** produced over the reporting period has improved, and the documents are largely aligned with the standards set down in the decree and methodology on strategic planning.

#### Public financial management

Despite initial delays, the pace of implementation of the **Public Financial Management (PFM) reform programme (2016-2020)** has gradually increased. Good progress was made on the adoption of programme-based and gender sensitive budgeting, including the first elements of performance budgeting, as well as the gradual introduction of a mid-term budgetary framework. The adoption of several decrees in the last quarter of 2020 and the adoption of amendments to the Law on budget and fiscal responsibility in June 2021 supported these reforms. Additional legislative changes are needed to complete the ongoing reforms, including the establishment of a fiscal council and the adoption of accrual accounting.

The establishment of a new budget planner and a centralised system for the calculation of earnings substantially improved the **state budget electronic system**. New systems for e-procurement, excise and e-fiscalisation are operational since January 2021.

**Challenges** remain with regard to capital budgeting, debt management, commitment and assets management, as well as with regard to interoperability of the different IT systems in place. Furthermore, the alignment between strategic plans and mid-term budgetary framework is still to be substantially improved. The implementation of the public sector accounting law in 2022 remains uncertain due to delays in the adoption of the necessary secondary legislation and upgrading of the accounting IT system. A Public Investment Management Assessment (PIMA) was carried out in June 2021.

The implementation of the action plan of the PFM reform programme 2016-2020 has been extended to 2021. Based on the results of the evaluation of the current programme, as well as

the recommendations of the Public Expenditure and Financial Accountability (PEFA) and PIMA, a **new PFM strategy 2022-2026** has yet to be finalised, pending consultations of all relevant stakeholders, and adopted. On **budget transparency**, some progress was achieved through the adoption of a new programme budget classification, with programme goals and performance indicators for the 2021 state budget. However, the execution, monitoring and reporting framework is still lacking, due to technical incompatibility between the budget planner, the treasury and accounting IT systems. The civil society is not systematically involved in monitoring the implementation of the PFM reform programme. New templates for in-year and annual budget execution reports remain to be adopted and implemented.

#### Public service and human resources management

In January 2021, the **Law on Civil Servants and State Employees** was amended at the initiative of the Parliament. The key amendments relate to lower qualification requirements for recruitment of senior management staff, possibility to dismiss the heads of the authority for any irregularity in their annual reports and appointment of acting heads in public administration.

As a result of the **reorganisations** of the state administration referred to above, 65% of senior management staff at central level were dismissed (91 employees) or resigned (42 employees). Among them, 110 employees were members of the key EU-accession negotiation structure. In addition, major changes in management staff in schools and hospitals took place.

Implementation of the 2018-2020 **Public Administration Optimisation Plan** ended in December 2020. In 2020, there was a significant increase in number of employees at central and local level.

#### Accountability of administration

Following various public consultations, conducted in inclusive and transparent manner, amendments to the Law on Access to Information have yet to be finalised and adopted. The number of appeals against decisions of public sector institutions on requests for information remains excessively high for a country with the size of Montenegro (4,328 in 2020). 76% of appeals were successful. Approximately one third of the successful appeals (1,002 in 2020) are because of silence of administration in the first instance bodies.

The basic **accountability** mechanisms between the ministries and the subordinate authorities are not functioning consistently. Only selected authorities submit their annual plans and reports for formal approval to the relevant ministry. The plans and reports of subordinate authorities do not stipulate objectives and measurable outcome-level targets nor performance information.

#### Service delivery to citizens and businesses

The Ministry of Public Administration, Digitalisation and Media established the register of state bodies and institutions and made it publicly available to the citizens. The register was also adapted for the use of persons with disabilities.

In line with the **Law on electronic government**, sub-legislative acts were adopted and the Council for electronic government was established. In accordance with **amendments to the law on electronic identification and electronic signature**, a number of rulebooks were adopted. A register of providers of electronic services was established, and it is possible to use electronic signatures in transactions, free of charge for citizens and at lower price for businesses.

The progress in **public service delivery** has been slow. Service, including digital service, provision is largely ineffective, and not user-friendly. Meanwhile, the process of establishing a company was re-designed, rendering it smoother and less costly.

The **administrative procedures** supporting the delivery of public services remain below expectations. Data interoperability and sharing data across public and private institutions, as well as the use of the established interconnection platform (Government Service Bus) is still limited. The implementation of the Law on identity card started in June 2020. The new electronic identity cards issued to Montenegrin citizens allow for electronic identification and signature.

## 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, 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 stagnating implementation of key judicial reforms and a limited track record on accountability. Despite a more proactive approach of the Anti-Corruption Agency, corruption remains prevalent in many areas and still an issue of concern. 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 on human rights. There was limited progress in the area of freedom of expression. Nevertheless, the technical and administrative work visibly intensified after the long over due appointments of new negotiating structures had been finalised in June 2021.

#### Functioning of the judiciary

Montenegro's **judicial system** is moderately prepared, with **no progress** overall. The implementation of key judicial reforms is stagnating. The decisive political commitment needed to unblock important segments of those reforms is still outstanding, with a number of appointments to the judiciary remaining pending in Parliament due to inability to secure qualified majority. Concerns remain over the institutional performance of the Judicial and Prosecutorial Councils. Reform results, in particular the track record on judicial accountability remain limited. Independence and professionalism of the judiciary need to be further strengthened. Montenegro continues to make efforts on efficiency of judiciary, in particular towards the development and promotion of alternative dispute settlement. However, human, financial and infrastructure management has still not improved. The timely implementation of the new ICT justice development programme has become uncertain due to organisational changes in the Ministry of Justice, Human and Minority Rights.

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

→ ensure the effective independence and professionalism of the judiciary by addressing all the remaining recommendations of the Venice Commission on the Law on State Prosecution Service, and fully and unambiguously implementing the relevant constitutional and legal framework, in line with the Venice Commission and Council of

Europe Group of States against Corruption (GRECO) recommendations;

- review the disciplinary and ethical framework for judges and prosecutors to strengthen its objectivity, proportionality and effectiveness, and ensure its effective implementation;
- adopt a new strategy for rationalisation of the judicial network laying down the next concrete steps leading to closure of unviable small courts.

### Strategic documents

No tangible results can be reported so far on the implementation of the 2019-2022 judicial reform strategy. The efforts to monitor the implementation of the Strategy need to intensify. The adoption of a new action plan for the period 2021-2022 is pending.

### Management bodies

The Judicial and Prosecutorial Councils remain 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, as identified by the GRECO, outstanding issues remain with regard to strengthening the Judicial Council's independence against undue political influence, for instance due to the ex-officio participation of the Minister of Justice.

Moreover, the May 2021 amendments to the Law on the State Prosecution Service, which entered into force in June 2021, failed to fully address the Venice Commission's recommendations concerning risks of politicisation of the Prosecutorial Council. In the process of preparation of the amendments, the Government twice requested the Venice Commission's opinion. Initially, the initiative was presented by the ruling coalition MPs, together with an initiative to dismantle the current Special Prosecutor's Office (SPO) and replace it with a new State Prosecutor's Office for Organised Crime and Corruption. In its March 2021 opinion, the Venice Commission acknowledged the public demand for reform but critically assessed the proposals. The plans concerning the SPO were subsequently abandoned. Revised amendments to the Law on State Prosecutor's Service were prepared following limited informal consultations including two round tables with active involvement of political parties, academia and NGOs. In its May 2021 urgent follow-up opinion, the Venice Commission welcomed the proposals aiming to mitigate the risk of politicisation and of conflict of interest within the Prosecutorial Council through new ineligibility criteria for its members and by stipulating that the one additional lay member would be nominated by NGOs and endorsed by the Parliament. These positive elements, however, did not justify the early termination of mandate of all members of the Council with the entry into force of the May 2021 amendments (their mandate would regularly terminate in January 2022), which is not in line with the Venice Commission recommendations and raises concerns as regards judicial independence. This is even more problematic since the new lay members continue to be voted in by a simple majority in Parliament – an issue on which the Venice Commission had already provided recommendations in 2014 and 2015 respectively and which remains to be addressed. It is essential for Montenegro to address these issues in order to avoid reversing the earlier achievements in the area of justice reform. Additional guarantees need to be put in place to mitigate the risks undue political influence over Prosecutorial Council that results from the election by simple Parliamentary majority of its five lay members. One specific solution proposed by the Venice Commission was for one of the five lay members to be appointed by the academic and by the legal community (the Bar), in addition to the member nominated by NGOs. A request for review of constitutionality of the May 2021 amendments, lodged by the Prosecutorial Council in June 2021, is pending before the Constitutional Court.

After entry into force of the May 2021 amendments to the Law on State Prosecution Service, the procedure for appointment of a new Prosecutorial Council was launched in June 2021. In August 2021, the Speaker of Parliament proclaimed a new Prosecutorial Council that functions in incomplete composition until the appointment of the five lays members that is pending in Parliament. Broad political consensus on these pending appointments will be key to prevent politicisation of the Council and undue political influence over it.

After the expiry of the mandate of the previous composition of the Judicial Council in 2018, the temporary anti-deadlock mechanism, introduced in 2018 continues to apply for a third year already due to inability to secure qualified majority in Parliament for election of the 4 non-judicial members. Following earlier resignations of two judicial members of the Council, two new members were elected in February 2021. After the resignation of the President of the Judicial Council in 2019, the President of the Supreme Court in December 2020 and the dismissal of the Minister of Justice, Human and Minority Rights in June 2021, the Council continues operating in incomplete composition. This undermines its capacity to exercise certain of its important competencies and all possible steps need to be taken for the Council to fully resume its functions.

The operational capacity of both Councils secretariats continues to improve, but needs to be further strengthened. The 2021 budget of the Judicial Council was reduced by 16% compared to the previous year to EUR 1.38 million and the budget of the Prosecutorial Council by 30% to EUR 469,000. Both Councils still need to assume budgetary and financial management functions. The process of gradually transferring budgetary planning and execution to courts and prosecution offices is still at an early stage. The Ministry of Finance is yet to recognise courts and prosecution offices as budgetary units. In September 2020, the State Audit Institution (SAI) issued a negative opinion on the regularity of operations of the Judicial Council for 2019 and a conditioned opinion on the financial audit with regard to the judiciary's annual report.

The two Councils still need to step up efforts to improve the transparency of their work, including by publishing fully reasoned decisions on promotions, appointment and disciplinary cases. Transparency improved slightly in the case of the Judicial Council, while it has decreased in the case of the Prosecutorial Council. The Prosecutorial Council needs to demonstrate a more proactive approach in addressing issues within the prosecutors' organisation, including with respect to professional performance of the heads of state prosecutor's offices and state prosecutors, their accountability, and to protect the reputation of the prosecutorial profession. The allegations of politically motivated actions by the SPO require credible, independent, transparent and effective institutional response.

#### Independence and impartiality

The legal framework guaranteeing judicial independence is in place but the judiciary and the prosecution continue to be perceived as vulnerable to political interference. Reports on state-sponsored apartments or loans under favourable conditions granted by the previous governments to members of the judiciary and prosecution, including senior ones and those dealing with politically sensitive cases, continue to raise concerns.

Out of the seven court presidents re-appointed for at least a third term between 2019 and 2020, the President of the Supreme Court and three basic court presidents resigned in December 2020 and January 2021. Four more basic court presidents serving at least a third term remain in office. Three public calls for the election of a new President of the Supreme Court were unsuccessful. One basic court president was elected in early 2021; the procedure for election of further two basic court presidents is pending. In June 2021, following the entry into force of the amendments to the law on State Prosecution Service, the Parliament

suspended the ongoing procedure for selection of the Supreme State Prosecutor and the Prosecutorial Council published a new public call for candidates. In the same month, the Prosecutorial Council appointed a new acting Supreme State Prosecutor after the previous one retired. After cancelling the vacancy announcements for 11 heads of prosecution offices, initiated in 2019, the Prosecutorial Council published a new call in January 2021. The selection procedure was completed for 10 heads of prosecution offices, while the appointment of the head of basic prosecution office in Podgorica was suspended after the amendments to the Law on State Prosecution Service entered into force. In December 2020, the Constitutional Court elected its new President for a three-year mandate. Following the retirement of two judges in January 2021, the Court operates in incomplete composition with 5 out of 7 judges. The procedure for the election of the two Constitutional Court judges is pending before the Parliament where qualified majority is required.

The random allocation of cases is foreseen by the Law on courts, and implemented automatically through the judicial information system PRIS. However, limitations in very small courts remain, while PRIS has not been introduced in the misdemeanour courts. In 2020, 1 274 cases were delegated among the courts, including 746 cases delegated at the level of basic courts and 528 cases delegated between the two high courts. In the absence of clear criteria, the practice of reallocating large numbers of cases between courts to reduce backlogs undermines the right to a lawful judge.

In July 2020, the Parliament enacted amendments to the Law on courts and to the Law on State Prosecution Service, harmonising both laws with the 2018 Law on judicial cooperation in criminal matters. No presidential pardons were granted in 2020 (compared to one in 2019).

#### Accountability

The promotion and enforcement of ethics and standards of professional behaviour of judges and prosecutors is hampered by limited track records and lack of proactivity by both Councils. In 2020, disciplinary proceedings were launched in four cases. In one case, the disciplinary liability of a judge was established and a fine of 20% salary reduction for three months was imposed. One initiative was dismissed, and one rejected. In the first half of 2021, two further proceedings were opened. In one case, disciplinary liability of a judge was established resulting in a sanction of 4-monthly 40% salary reduction. In April 2021, the Judicial Council temporarily suspended a basic court judge due to pending criminal proceedings on suspicion of issuing illegal court decisions. In 2020, one disciplinary proceedings was initiated against a public prosecutor and one further proceedings in early 2021. In one of these cases disciplinary liability was established and sanctioned by a fine. In 2020, there were 13 reports of alleged violations of the code of ethics for judges and further 15 by June 2021. Of the eight cases completed in 2020, in one case, a violation was established by the ethical commission, while no such violation was found in the four cases completed by mid-2021. Two cases were referred to disciplinary prosecutor. During 2020, five initiatives of alleged violations of the code of ethics of public prosecutors were examined and further three in 2021. Violations were found in two cases.

The system for detecting breaches of integrity rules needs to be made more effective, objective, consistent and proportionate and ensure due 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 law. The decisions of the Prosecutorial and Judicial Councils remain insufficiently motivated and case-law is yet to be developed.

In 2020 and early 2021, judicial inspections were conducted in accordance with the annual plans and irregularities were found in one misdemeanour court, three public bailiffs' offices

and two notaries' offices. No irregularities were found in prosecution offices. The Ministry's capacity in this area needs to be enhanced. While two new inspectors were hired in 2020, due to retirements, only one judicial inspector out of four foreseen, and the chief judicial inspector, were employed in June 2021 in the respective department of the Ministry of Justice and Human and Minority Rights.

New code of ethics for notaries and the code of ethics of court interpreters and translators were developed and adopted. The self-regulatory roles of the chambers and professional associations of legal professions must be further enhanced.

#### Professionalism and competence

Montenegro organises single nationwide competitions for judges and prosecutors. In December 2020, the Administrative Court annulled the 2019 decision on selection of candidates for basic court judges due to procedural irregularities. The repeated selection procedure was finalised in March 2021. Further efforts are required to address in a credible manner these types of challenges. In 2020, two judges were promoted to higher-level judicial positions, while four judges were voluntarily reassigned. As example of good practice, the Judicial Council has started publishing the names of candidates who apply for the judicial positions. In January 2021, four state prosecutors were promoted to a higher state prosecutor's office, while one state prosecutor was permanently voluntarily reassigned to another basic state prosecutor's office.

In 2020, 23 judges were evaluated, 15 under the regular evaluation procedure (compared to 55 in 2019). Following the resignation of the Supreme Court President, the Judicial Council has not yet started with the process of evaluation of judges for 2021. According to its interpretation of the law, the assessment cannot be performed until a new President of the Supreme Court is elected who should chair the respective commission. This narrow interpretation prevents adequate and timely promotion of judges and the election of courts' presidents. In 2020, no public prosecutors were evaluated under the regular evaluation procedure, while two prosecutors were evaluated for the purpose of promotion and seven at the end of their four-year mandates. Until June 2021, one special prosecutor was evaluated under the regular procedure and three state prosecutors after two years in office. Professional evaluation of prosecutors needs to be more thorough, objective, and in line with the assessment criteria revised in 2017. Any revision of the existing rules and criteria for evaluation of judges and prosecutors should not depart from the established principles.

The interpretation of legal conditions for old-age retirement of judges and prosecutors is disputed after the 2020 Law on pensions insurance lowered the general age requirement for acquiring the right to pension, deviating from provisions in the general labour law. Both the Judicial and the Prosecutorial Councils consider that the new Law on pensions does not apply to them and the Judicial Council's request for review of constitutionality of the Law on pensions is pending before the Constitutional Court.

In May 2021, the Bar Association of Montenegro declared a complete general strike of lawyers, due to their objection to the implementation of the Law on fiscalisation. The strike lasted until end of July, and led to postponement of hearings in all courts and seriously affected a number of proceedings, including urgent ones. The disciplinary panel of the Bar Association initiated proceedings against one lawyer who broke the strike to represent a person deprived of liberty.

#### Quality of justice

In 2021, the Judicial Training Centre (JTC) was allocated a budget of EUR 419,999, 30% less than in 2020 and below the statutory minimum. 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. The functioning and staffing levels continued to improve. The centre has gradually adapted to the epidemiological situation and moved its training activities online. Its administrative, managerial, strategic planning, communication and financial management capacities need to improve further. Its regular cooperation and communication with the Judicial and Prosecutorial Councils is yet to be established. The role of the Centre's Programming Council has improved, but its current approach to annual training programming needs to be replaced by a comprehensive training needs assessment, which should adequately cover also the judicial values and skills. The Centre participates in the activities offered by the European Judicial Training Network (EJTN) as an observer. In 2020 and by mid-2021, 37 members of the judiciary and the Centre's secretariat participated in EJTN activities.

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, nor used for management and policy-making purposes.

In October 2020, the ICT justice development programme for the period 2021-2023 was adopted. Although the Ministry of Justice and Human and Minority Rights is a key institutional actor for the implementation, the Ministry's reorganisation in early 2021, downgrading the organisational status of the Directorate for ICT Justice and Data Security to a service for judicial ICT raised concerns with respect to allocation of sufficient capacities for the implementation. A new act on reorganisation is under preparation that should restore the status of the ICT directorate. In 2020, the Ministry of Justice developed a centralized judicial web-portal integrating portals of judicial and prosecutorial institutions to a single unit. The ICT sub-system for courts is expected to be fully operational by the end of 2022. Until the new system is in place, the current judicial information system PRIS, is used by all courts for case monitoring, certain aspects of case management and interaction with parties. The system has security loopholes and does not operate consistently. Software module for electronic archiving in judicial institutions has been developed and tested. In October 2020, the Judicial Training Centre started developing its integral information system as online portal for registered users, which should include a platform for e-learning.

The budget for judiciary for 2021 is EUR 36.5 million (2020: EUR 39.1 million) and remains above the regional per capita average. Montenegro 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 21 judges and 12 prosecutors, as well as 2.6 times as many judicial staff per inhabitants as the European average. Collection of court fees remains much lower compared to the region.

The positive trend in **alternative dispute resolution** continued. The implementation of the new law, which provides inter alia for compulsory recourse to alternative dispute resolution for certain types of cases, started in August 2020. All relevant bylaws were adopted and the Centre for Mediation was transformed into a Centre for Alternative Dispute Resolution (ADR). The number of cases referred to the Centre for ADR has significantly increased, both by courts and by citizens. In 2020, 3 567 cases were referred to the Centre for Mediation (2019:917 cases), and 1 269 cases were settled through mediation (2019:403 cases). By mid-2021, the number of cases referred to the Centre for ADR (3,744), both by courts and parties already exceed the total number for 2020. During the same period, 618 cases were solved.



Further 2,819 cases (2019: 2,743) were submitted to the Agency for Peaceful Settlement of Labour Disputes in 2020, 1,663 of which were resolved (2019: 1,258).

### Efficiency

In 2020, 118 913 cases were pending before Montenegrin courts, including 80 723 new cases; 83 206 cases were resolved. Montenegro continued to take concrete measures to reduce the backlog of old cases, which were given priority status. In 2020, 5 896 cases older than three years have been resolved, while at the end of the year there were still 3 036 cases older than three years pending before Montenegrin courts. The disposition time, i.e. the average time from filing to decision, was 150 days in basis court cases (2019: 143 days) and 147 for commercial cases (2019:116 days). The disposition time before the Administrative Court (438 days) remains the cause for concern.

As regards the enforcement, clearance and recovery rates are increasing, and the backlog of enforcement cases before the courts has been reduced from 150 000 in 2016 to just around 1 600 by the end of 2020. In 2020, 66 402 cases were filed to bailiffs' offices (2019: 61 127) with 42,283 cases pending at the end the year (2019:40 019). The centralised case management system for bailiffs continues to be used consistently, guaranteeing data reliability. The enforcement of court decisions remains a challenge.

In October 2020, the Ministry of Justice published an analysis on the needs of the rationalization of the judicial network, which recommended the merge of the smallest courts to larger courts close to their current territorial jurisdiction. The analysis should serve as a basis for preparation of a new strategy for rationalisation of the judicial network. However, no concrete steps have been taken in this respect during the reporting period. Reform in this area should draw on the available data, conclusions from undertaken studies and cost-benefit analyses, while ensuring better overall management of human resources and judicial infrastructure, and should ultimately lead to optimisation of the judicial network and closing down of small unviable courts.

### Domestic handling of war crimes cases

Montenegro continued to implement the war crime prosecution strategy, but with limited results. The 2019 conviction of one defendant for crimes against civilian population in Kosovo\* became final in 2020. There are currently five cases in the preliminary phase of investigation concerning war crimes committed on the territories of Bosnia and Herzegovina, and of Croatia. One new investigation was opened in 2021, while one was closed for lack of grounds for prosecution. In November 2020, the co-operation with the International Residual Mechanism for Criminal Tribunals (IRMCT) resulted in the handover of a file concerning individuals believed to be Montenegrin nationals who are suspected of serious war crimes. On the basis of this file, the Special Prosecutor's Office opened a preliminary investigation in one case, formed a special investigative team and undertook activities to identify the potential suspects and to request mutual legal assistance from the prosecution service of Bosnia and Herzegovina. SPO revised one of the finally adjudicated war crimes cases and contacted IRMCT and the family of the victims with the aim to obtain new information or evidence. Montenegro ensures good cooperation with the neighbouring countries and the IRMCT. In 2020, the SPO acted upon 11 letters rogatory from Bosnia and Herzegovina, Serbia, Croatia and the Kosovo Specialist Chambers and upon further nine in the first half of 2021.

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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.

Investigation and adjudication of war crimes cases faces legal and practical obstacles, including with respect to specific evidentiary requirements of war crimes trials, witness protection and insufficient capacities within the prosecution and the judiciary. Montenegro needs to further steps up its efforts as a matter of priority to fight impunity for war crimes, to address the legal and practical obstacles and to demonstrate a more proactive approach in order to effectively investigate, prosecute, try and punish war crimes in line with international standards. The judicial decisions reached in the past contained legal mistakes and shortcomings in the application of international humanitarian law. Charges of command responsibility, co-perpetration and aiding and abetting have not been brought so far.

During 2020 and first half of 2021, 52 claims for compensation were pending before the courts, all concerning the "Morinj" case. Of those, 41 were fully or partially upheld, awarding the total non-pecuniary damage of EUR 230 700. In 16 out of 41 cases, the judgments became final. Proceedings are ongoing in remaining 13 cases. All these claims are treated as priority by the courts. Compensation can only be awarded in cases where a criminal conviction for war crimes has become final.

In February 2021, Berane Municipal Council rejected an initiative to name a street after the former commander of the Army of *Republika Srpska*, convicted for war crimes. In June 2021, Parliament supported the motion of the Prime Minister to dismiss the Minister of Justice, Human and Minority Rights after he failed to agree to established facts about the crime of genocide being committed in Srebrenica. On the same day, Parliament adopted a resolution on genocide in Srebrenica.

### **Fight against corruption**

Montenegro has achieved **some level of preparation**. **Limited progress** was achieved, with last year's recommendations partially met through further results on track records on repression and prevention of corruption and the Anti-Corruption Agency's efforts to address its challenges. The track record on seizure and confiscation of assets and final court decisions in corruption cases needs to be further improved. The Anti-Corruption Agency (ACA) under the new management demonstrated a more proactive approach, especially with regard to stepping up its communication and outreach activities towards the general public, media and civil society and addressing the remaining caseload from previous years. Despite this positive trend, challenges related to the Agency's independence, priority-setting, selective approach and quality of its decisions remain and require sustained efforts in this respect.

In the coming year Montenegro should in particular:

- review the legal framework in the area of prevention of corruption to address the issues identified through its application, in order to strengthen the track record on prevention of corruption and the Agency's performance in this respect;
- improve track records on repression and prevention of corruption, including by imposing effective sanctions and take concrete measures to limit the use of plea bargains to exceptional cases, in order to improve the transparency and the credibility of the judicial response to corruption through a more deterrent and consistent sanctioning policy;
- review the legal approach towards financial investigations, and asset recovery, to align it with international standards and with modern EU practices; establish an integrated approach between all the bodies involved and provide them with the necessary legal and operational tools to create the conditions for establishing a sustainable track record in this area.

### Track record

The track record of investigations, prosecutions and final convictions in cases of high-level corruption increased but remains to be further consolidated.

In 2020, Special Public Prosecutor's Office (SPO) opened investigations into **criminal offences of high-level corruption** in eight cases against 35 persons and 8 legal entities (2019: six cases against 15 individuals and one legal entity). In the first half of 2021, eight investigations against 28 individuals and seven legal entities were opened. Further high-level corruption cases are in the phase of preliminary investigation. The investigated cases concern inter alia privatisation, fraud in relation to investment and development loans, tax fraud and misappropriation of coastal land. Suspected individuals include former ministers (one currently serving as MP and another one as ambassador), high-level public officials, majority owner of a commercial bank and the bank's CEO, a judge and director of a public company. Three indictments (2019: 5) were lodged for the criminal offence of high-level corruption against 18 persons and three legal entities in 2020, and further two indictments against eight individuals and one legal entity in the first half of 2021. The financial investigations have been launched in four cases against nine persons in 2020 and in four cases by mid-2021 against 30 individuals and two legal entities (2019: 4 cases against 29 persons). In the 'envelope affair', the High Court initially accepted the part of the indictment against the businessman involved in the case and five other persons for creating a criminal organisation engaged in money laundering. The indictment against the former Mayor of Podgorica and the adviser to the President of Montenegro in the same case was subsequently confirmed upon appeal by the prosecution. Three final and enforceable judgements (2019: 4) were issued for high-level corruption in 2020, resulting in two convictions of three persons. In 2021, one conviction based on a plea bargain agreement became final and one further convicting judgment was issued in another case but is not yet final. 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 track record on the **confiscation of assets** for criminal offences in the field of high-level corruption remains moderate. In 2020, one residential unit of 193 m<sup>2</sup> was confiscated. In the first half of 2021, assets were temporary frozen in two cases.

The track record on **prevention of corruption** is slowly improving, but sanctions imposed in general still remain below the statutory minimum and do not have a preventive or deterrent effect. In 2020, the ACA instituted 510 proceedings (469 proceedings for violating the provisions of the Law on prevention of Corruption, and 41 for violating the provisions of the Law on financing of political entities and election campaigns) before misdemeanour courts. A total of 394 proceedings were completed in 2020 (including those from previous years), in 81% of them fines were imposed. These amounted to EUR 58 370 for violation of the Law on prevention of corruption, and EUR 23 192 for violation of the Law on financing of political entities and election campaigns. Further 652 proceedings were instituted by mid 2021, and in the proceedings terminated during the same period fines in the total amount of EUR 62,475 were imposed. In 2020, the ACA further issued 42 direct misdemeanour orders (2019:40) and 131 in the first six months of 2021 alone. In four cases, ACA requested seizure of material gain before the competent courts, resulting in one confiscation valued EUR 2,892 in 2020 and in two confiscations in the amount of EUR 8,654 in the first half of 2021.

Based on 135 opinions (2019:158) and 63 decisions (2019:72) issued by the Agency in 2020 on **incompatibility of functions and conflict of interests**, 41 public officials resigned (2019:57), whilst one (2019: four) was dismissed.

In 2020, the ACA has received 8,108 (2019:8149) **income and asset declarations** and verified 966 reports (2019:911), exceeding its annual plan by around 10%. The optional

consent for accessing bank accounts for the purpose of verifying the data submitted in the declarations was provided by 53,5% of public officials. In 2020, the Agency initiated 138 (2019:119) administrative proceedings and violations were established in 60 (2019:54) cases. Sanctions were imposed in 10 cases (2019:17), seven in the form of a warning, two in the form of salary deduction and one in the form of initiation of the disciplinary procedure. In December 2020, the Agency started to monitor the lifestyle of public officials, using publicly available data and media reports. The ACA carried out planned control and verification of 872 (2019:839) public officials, 20 of them high-ranking officials, including two ministers. The Agency issued 21 misdemeanour orders (2019:7) totalling EUR 3,832.

Concerning **funding of political parties and electoral campaigns**, in 2020, 46 political parties (out of 59) submitted annual financial reports, while 51 submitted decisions regarding amounts of membership fees for 2020. All reports submitted were published on the Agency's website. In November 2020, the Agency published the report on its oversight of the **election campaign** for the 30 August elections. The Agency carried out control of 43 political entities/electoral lists as well as 36 opened election accounts. In total, 144 complaints were submitted and processed. In 11 cases, the ACA found violation of the Law on financing of political entities and electoral campaigns, initiated proceedings in 12 cases and forwarded seven complaints to other competent authorities for further examination. In the course of the election campaign, the ACA submitted 74 warnings to political parties and initiated 44 misdemeanour proceedings, 89% less in comparison with campaign for 2016 parliamentary elections. The Agency developed a specific PR plan for the campaign and organised three roundtables with the civil society, media and political parties as well as regular 'open-door' days with interested NGO representatives. In the first quarter of 2021, the Agency oversaw the local elections in Niksic on 14 March in line with its competences. According to the final report issued in June, the Agency verified 54 reports of political parties and issued 33 warnings. In total, 105 proceedings were conducted related to irregularities and suspicions of violations of the Law. The Agency performed 10 on spot inspections and was part of the working group established by the Ministry of Interior during election day in Niksic. It organised four meetings with NGO representatives. Five complaints were submitted for Agency's further investigation, four of them were forwarded to other competent bodies. One misdemeanour procedure was initiated and 30 misdemeanour orders were issued. The Agency oversaw the local elections in Herceg Novi on 9 May in accordance with its work plan which included eight on spot inspections, as well as co-operation with civil society and media.

In 2020, the State Audit Institution published positive audit reports on annual financial statements from 2019 for eight political entities, whilst regularity audits resulted in one positive, one negative and six conditional reports. The SAI further forwarded three cases to the prosecution following completed audits of public bodies and public companies. While the quality of its reports is improving, the fact that it only forwards its suspicions of fraud and corruption related offences to the prosecution once it completes its audit, negatively affects the efficiency of the criminal response to these cases.

In 2020, the Agency received three requests for **whistle-blower protection**, including one requesting physical protection, which was subsequently referred to and denied by law enforcement services. The Agency finalised the work on the three request from 2019, establishing the damage caused on whistle-blower in two cases. In 2020, the Agency received 75 reports on threats to public interest (2019:110), 31 reports were processed and threats on public interest were established in three cases. Twelve reports were forwarded to the prosecution, whereby four reports were rejected and investigation on the other reports is underway. The prosecution established irregularities in one case from 2016 concerning the private sector.

On **integrity plans**, in 2020, 679 reports on the implementation of the integrity plans for 2019 were submitted, and currently 98% of public authorities have integrity plans in place. The Agency prepared the report on the implementation of the integrity plans, which also includes assessment of the efficiency and effectiveness of all integrity plans and recommendations for their further improvement.

The **lobbying** register still contains only six persons. In 2020, the Government approved a draft rulebook on the organisation of the lobbying exams. The new commission on lobbying is yet to be appointed, after the mandate of the former one expired.

The draft **code of ethics** for top executive officials and the guidelines on how to implement the anti-corruption rules prepared already in 2020 is still not adopted. The results in this area remain very limited.

In 2020, the Agency submitted two non-binding legal opinions, on the draft Law on amendments to the Law on civil servants and state employees, and on the Law on sports. In the first quarter of 2021, it submitted its opinion on the proposal of the Law on Public Prosecutor's Office and on the proposal of the Law on Prosecutor's Office for organized crime and corruption as well as its opinion on the existence of threats to public interest by the Minister of Justice at that time. In April 2021, the Agency initiated proceedings to determine potential conflict of interest with regard to Minister of Justice and his role in drafting the Law on freedom of religion, following a NGO complaint.

### Institutional framework

#### *Prevention of corruption*

Currently, the Agency employs 55 people. In March 2021, the rulebook on the systematisation of the Agency, was adopted and foresees a total of 75 posts in the ACA organisational structure. In 2020, the Agency enhanced its communication activities, including strengthening its presence on social networks and media as well organising joint meetings with CSOs. The work has also started on addressing the remaining caseload from previous years.

In November 2020, the basic court of Podgorica annulled the Parliament's decision to dismiss one member of the Council of the ACA in 2019 due to incomplete establishment of facts, application of the law and legal reasoning. With another ruling in November 2020, the basic court of Podgorica found that five members of the Council of the ACA were unlawfully appointed by the Parliament on 31 July 2019.

In December 2020, the National Council for the fight against high-level corruption was established, chaired by the Deputy Prime Minister. The body aims at addressing systematic problems related with high-level corruption cases and increasing transparency on the fight against corruption. Its institutional role, relations with other bodies and its powers, as well as safeguards in this respect, still need to be adequately defined. Several sessions of the Council were organised and the rules of procedure of the Council were adopted. In April 2021, the expert team of the National Council announced that during recent years, at least 175 out of 580 public officials and members of the judiciary and prosecution received government-subsidised apartments and housing loans worth EUR 25 million, suggesting a number of irregularities and transparency and integrity risks.

#### *Law enforcement*

In 2020, the Special Prosecutor's Office for organised crime and high-level corruption (SPO) increased its staff number to 54 members, including 16 Special Prosecutors (respectively, 46

and 14 in 2019). The poor office conditions, hampering the efficient functioning of the SPO, remain unaddressed.

### Legal framework

The law on **financing of political entities and election campaigns** maintains conflicting provisions and does not provide for effective safeguards and sanctions against circumvention, which limits the effectiveness of oversight. All shortcomings, in the existing legal framework on political parties' financing, including those identified in OSCE/ODIHR recommendations, need to be swiftly addressed. In November 2020, the Agency proposed a revision of the Law on lobbying to the Ministry of Justice, Human and Minority Rights.

In 2020, the total number of requests for **free access to information** was 4,328 (2019:5,409) and 3,304 (2019:3,531) complaints were filed. The draft amendments to the Law on free access to information should be finalised by end of 2021. The Government plans to proactively share public information and there is a more positive, albeit uneven, trend of declassifying and providing access to certain documents to which access was denied previously. This also concerns information with regard to areas sensitive to corruption.

### **Fundamental rights**

In the area of fundamental rights, the legislative and institutional framework is largely in place and Montenegro continues meeting obligations from international human rights instruments and legislation. However, challenges remain in effective implementation. The efficiency of investigations into excessive use of force by law-enforcement and hate crimes needs to improve further. Vulnerable groups, including Roma and Egyptians, and persons with disabilities continue to experience multiple forms of discrimination and difficulty in enforcing their rights in administrative and judicial proceedings. Women continue to experience inequality in participating in political and public life and accessing employment, and economic opportunities. Gender-based violence and violence against children remain issues of serious concern. Incidents of ethnically and religiously motivated attacks, hate crimes and hate speech continued to rise. Last year's recommendations have been only partially addressed. Access to justice, in particular of vulnerable groups remains to be improved. Amendments to the 2019 Law on Freedom of Religion of Belief were adopted in January 2021.

In the coming year Montenegro should in particular:

- implement the key outstanding recommendations of the monitoring bodies of the United Nations (UN) and Council of Europe (CoE);
- improve the legal and institutional framework to ensure better access to justice, procedural rights and free legal aid for victims of human rights violations and crimes, in particular children, women, minorities, including Roma and Egyptians, and persons with disabilities;
- complete the alignment with EU acquis in the area of data protection and improve the capacity, professionalism and independence of the Agency for Data Protection and Access to Documents.

As regards **international human rights instruments**, Montenegro continued its dialogue with international human rights organisations and monitoring bodies, the United Nations and the Council of Europe. 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 and the Protocol of 2014 to the 1930 Forced Labour Convention.

Montenegro continued to ensure good cooperation with **the European Court of Human Rights (ECtHR)**. In 2020, 218 new applications against Montenegro were allocated to a

judicial formation and 37 applications were pending at the end of the year. In 2020 and first half of 2021, ECtHR issued decisions in 16 cases. While majority of violations were found with respect to the length of proceedings, the court also found violations of the procedural aspect of the prohibition of torture, inhuman and degrading treatment due to ineffective investigation of police abuse during opposition protests in October 2015, of the right to family and private life and unlawful deprivation of liberty. No case was subject to enhanced supervision of the Committee of Ministers in 2020.

On the **promotion and enforcement of human rights**, the institutional capacities need to be further strengthened, including by allocation of appropriate budget. The merging of the Ministry of Human and Minority Rights with the Ministry of Justice in late 2020 and related organisational and personnel changes contributed to an initial slowdown in the implementation and monitoring of human rights strategies and policies. The regulatory and institutional framework for the functioning of the Ombudsperson (B status) is in place and the Ombudsperson continued to be perceived as the institution with the best impact and trust with regard to the promotion and protection of citizens' rights. The capacities of the Office to handle complaints and the quality of its decisions continued to improve. The Office reinforced its communication with competent authorities and the public as well as the visibility of its actions. Its budget was reduced by five% in 2021 compared to 2020. In 2020, the office received 1,075 complaints (2019: 840), mostly in relation to the rights of the child, discrimination, alleged violations of procedural rights, excessive use of force by the police, ill-treatment and torture in police stations and detention facilities, and issued 357 recommendations. The implementation of Ombudsperson's recommendations by the authorities needs to be more systematic, effective and prompt. The quality of the Constitutional Court's decisions continued to improve with regard to awareness and application of human rights standards and ECtHR case-law. For the first time, in September 2020, the Court ordered to halt an extradition of a foreign citizen due to risks of torture and ill-treatment. The fact that regular courts do not always follow its decisions and have divergent interpretation of human rights standards still raises concerns over legal certainty, the right to final judgement and duration of proceedings. An analysis is under preparation on the divergent interpretation of human rights standards between the Supreme and the Constitutional Court, in particular with respect to property rights guarantees. The backlog of cases pending before the Constitutional Court continues to increase.

As regards the **prevention of torture and ill treatment**, Montenegro continued to work towards implementing the 2019 recommendations by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT). 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 finalised. New instructions on the treatment of detainees and arrested persons by police officers entered into force in April 2021. The capacities of the national prevention mechanism (NPM) embedded in the Ombudsperson's Office were further strengthened and the NPM fulfilled its annual visits plan for 2020. The Office processed 201 cases in 2020, most of them concerning the Institute for the Execution of Criminal Sanctions (129) and the Police Administration (39). With respect to police procedures, it found evidence of misconduct and infringements of human rights standards in four cases. It further reported 11 cases of ill-treatment in prisons. In November 2020, it completed its investigation in two cases concerning allegations of torture and ill-treatment of three individuals in police detention in May 2020. It found evidence of inhuman and degrading treatment in one case and of serious misconduct in terms of procedures in the other case. The police internal control did not confirm the allegations of ill-treatment or torture in the case of one of the three

individuals, investigation by the prosecution is still ongoing. The Ombudsperson further confirmed allegations of ill-treatment by police in 11 cases in the context of religious rallies. Disciplinary proceedings against three police officers and further preliminary investigations are ongoing with respect to the events in Budva in June 2020. Indictments were lodged in April 2021 against five police officers and the chief of the local police station in relation to alleged ill-treatment during the May 2020 protests in Pljevlja. In 2020, 16 cases against 31 defendants (police officers) concerning the criminal offence of ill-treatment were pending before the courts. Proceedings were concluded in five cases with two convictions, two acquittals, and the dismissal of indictment against two defendants. Despite this relative increase in investigated and prosecuted cases, shortcomings in internal control, protracted and inefficient investigations, lenient and non-deterrent sanctions and impunity for perpetrators remain a cause of concern. The investigations into police violence continue to be hampered by lack of visible identification markings on police uniforms.

Some progress was made on the **prison system** and conditions of detention. Following the 2020 amendments to the Law on enforcement of prison sentences, fines and security measures, respective by-laws and internal measures were adopted. The Strategy for the execution of criminal sanctions 2017-2021 has been partially implemented due to limited financial resources and expertise, as well as challenges related to the COVID-19 crisis. Staff reinforcement and capacity building continued as well as programmes or activities available to the prisoners. Several NGOs implemented educational, recreational, vocational activities for prisoners in various sectors. Psychological, social and re-socialisation services were also provided at the detention and rehabilitation centre of Podgorica for juveniles. A COVID-19 crisis plan in prison was adopted in accordance with the recommendations of both the CPT and the Ombudsperson. Vaccination of inmates started in March 2021. The new juvenile prison department became operational in October 2020. The number of female prisoners in Montenegro is estimated (2019) around 30, representing 2.6 % of the total prison population. Conditions in the detention unit for female inmates are overall decent. Despite some improvement, the material conditions in prisons, pre-trial detention facilities and psychiatric hospitals are still not at the level required by international standards. Conditions in the overcrowded Dobrota psychiatric hospital remain very poor.

On **protection of personal data**, Montenegro continued working on alignment with EU acquis. The capacity of the Agency for Personal Data Protection and Free Access to Information, composed of 30 employees in 2020, needs to be further strengthened. The number of complaints is increasing but the overall awareness on personal data protection issues remains low. In early 2021, criminal investigations were opened against the former head of the National Security Agency and several officer of the Agency for alleged unlawful surveillance of former opposition parties' representatives, journalists and leaders of the Serbian Orthodox Church. In May 2021, a first-instance court issued first decision awarding compensation due to publication by the authorities of a list of individuals subject to COVID-19 measure of self-isolation in spring 2020, which was declared to be in violation of the Constitutional right to privacy by the Constitutional Court in July 2020. Several hundred such claims are currently pending before the courts. Montenegro has not signed yet the 2018 Council of Europe Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

In the area of **freedom of thought, conscience and religion**, in January 2021, the Parliament through a second vote enacted amendments to the Law on freedom of religion or beliefs with respect to the legal status of religious communities, their registration and property rights. The amendments were prepared in absence of public debate and following limited consultations with representatives of religious communities, excluding the Montenegrin Orthodox Church.



The Government announced the signing of a basic agreement with the Serbian Orthodox Church. Its content is yet to be disclosed to the public. Several church ceremonies and gatherings took place in violation of the COVID-19 restrictions. The religiously motivated attacks continued after the August 2020 elections and in the course of 2021 and remain a matter of concern.

### **Freedom of expression**

Montenegro has achieved **some level of preparation** in the area of freedom of expression. There was **limited progress** overall during the reporting period. Despite certain signals from the Government that it would consider this area a priority, last year's recommendations were only partially addressed and safety of journalists remains a serious concern. Full and effective judicial follow-up to important old cases of attacks against journalists remains to be ensured. In April 2021, the government established a new ad-hoc commission for monitoring violence against media, but recommendations of the previous commission still need to be addressed. The revision of the legal framework continued. More efforts are required to limit the effects of disinformation and on-line harassment and hate speech, while ensuring that such measures do not limit disproportionately freedom of expression. New RTCG Council was appointed by Parliament in June 2021. Following this change and the subsequent changes of RTCG management, the public broadcaster started to feature politically more diverse content. The media scene overall remained highly polarised. Extensive involvement of foreign media from the region was particularly notable during elections' periods. Self-regulatory mechanisms remain weak. The announced preparation of a new media policy strategy has the potential to facilitate broad and inclusive dialogue between the authorities and national stakeholders.

In addressing the shortcomings, Montenegro should in particular:

- step up efforts to effectively investigate, credibly solve and adequately sanction cases of attacks against journalists;
- safeguard against any form of political pressure or influence on RTCG and continue to restore its editorial independence and professional standards;
- complete the revision of the legal framework in the area of media in continued dialogue with the media community and civil society, while ensuring consistent application of the new legislation in accordance with international and European standards.

### Intimidation of journalists

There has been limited progress in addressing violence against journalists and media. Some progress was made in the investigation of the 2018 shooting of an investigative journalist, however, effective judicial follow-up both to this case and to other critical old cases, including the 2004 murder of the editor-in-chief of the daily newspaper Dan, remains to be ensured. In 2020, the prosecution launched six criminal proceedings and one misdemeanour case for violence against journalists and media property. Courts dealt with eight criminal and misdemeanour cases of attacks and harassment of journalists, convicting five defendants and dismissing charges against one person. Harassment of journalists, including use of physical violence in several cases, and on-line threats were reported in the course of 2020 and 2021. In December 2020, two persons were arrested on suspicion of plotting to murder an investigative journalist, while the police filed criminal charges against six persons in relation to the May 2018 attack on the same journalist. The journalist was granted police protection. Full and effective judicial follow-up to this case is yet to be ensured. Further efforts are needed to effectively investigate, credibly solve and adequately sanction cases of attacks against journalists.

On several occasions, top government officials engaged in strongly worded public criticism of the work of the public broadcaster and certain privately owned media outlets. The authorities should promote 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.

In March 2021, the Appellate Court upheld the first-instance judgement of the Podgorica Higher Court sentencing an investigative journalist to one year in prison on charges of acting as intermediary in a drug trafficking operation. The ruling raises concerns about journalists' ability to perform their duties professionally and without fear of legal repercussions.

In April 2021, the government established a new commission for monitoring violence against media, with the same competences as the previous one. The specific recommendations from the previous commission concerning important old cases of attacks on journalists have not been fully and effectively addressed by the relevant authorities. The authorities are encouraged to ensure effective follow-up of commission's recommendations, while providing it with all the necessary preconditions for its work.

#### Legislative environment

A review of the 2020 Law on media and the Law on public broadcaster RTCG, together with the preparation of a new Law on audio-visual media is ongoing. It should address additional issues identified in the 2020 law on media and the law on public broadcaster RTCG, to complete it with a new law on audio-visual media, and ensure their full alignment with the EU *acquis* and European standards. The Ministry of Public Administration, Digital Society and Media launched a public consultation process for the drafting of a comprehensive media strategy for the period 2021-2025. Once adopted, it would be a first document of this type.

#### Implementation of legislation/Institutions

There is an uneven application of the journalistic code of ethics across the media community, self-regulatory mechanisms are weak and the frequency of journalists and media filing defamation lawsuits against other journalists is high. More resolute efforts are needed to create effective self-regulatory mechanisms, with a view to improving professional standards and accountability in media reporting.

#### Public service broadcaster - *Radio Televizija Crne Gore* (Radio Television of Montenegro – RTCG)

The public broadcaster RTCG is yet to complete its transition from a state media organisation to a true public service broadcaster that would comply with the highest professional standards. New RTCG Council was appointed by the Parliament by simple majority in June 2021. Since the subsequent appointment of the RTCG's new management and editorial team, RTCG broadcasting started to reflect a more balanced editorial policy featuring politically more diverse content. The dismissals of former members of the RTCG Council and subsequently of its management in 2018, which raised concerns about undue political interference and pressure on the RTCG, continued to be declared unlawful by domestic courts in 2021. 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 legislation.

#### Economic factors

The chronic economic difficulties affecting the local media community have been exacerbated by the COVID-19 pandemic. The new legal provisions aimed at ensuring transparency of state advertising are yet to be implemented. There is a growing influence of big regional media companies that are looking to expand to the national media market. Small local media

outlets are struggling to compete with them for the limited advertising revenues. The government put in place a set of mechanisms for financial support to mitigate the economic fallout of the COVID-19 epidemic, including general financial aid package, financial assistance for print media and online news portals, salary subsidies, working capital loans, and deferred payment of payroll taxes during 2020. The Council of the Agency for Electronic Media exempted public and commercial broadcasters from the payment of broadcasting fees for 2020 and 2021.

### Internet

Cases of arrests of citizens for content they posted on-line, although less frequent, continued to be reported. The courts dismissed the charges in several proceedings instituted in 2020 against editors of on-line portals and citizens for content they posted on-line. The 2020 Law on Media requires online media outlets to remove any third-party comments that represents manifestly illegal content no later than within 60 minutes of receiving a notification about such illegal content. The short deadline for removal of comments potentially places an undue burden on online media outlets, particularly on smaller services.

### Professional organisations and working conditions

The COVID-19 pandemic has further aggravated the already difficult economic situation of journalists and media workers, including job insecurity and low salaries. Journalists are generally economically highly dependent on media owners, regardless of whether private individuals, national or local authorities, which ultimately results in biased reporting and creates risks of self-censorship, political pressure and owners' interference in editorial policy. Journalists at local public broadcasters are particularly exposed to such risks and precarious working conditions, as these broadcasters are directly editorially influenced and financially controlled by local authorities.

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

The **freedom of assembly and association** was overall respected during the reporting period. While the COVID-19 pandemic contributed to a significant decrease in the number of public assemblies compared to the previous year, a number of occasional, mostly unannounced gatherings were held largely peacefully, albeit in breach of epidemiological measures. Large-scale assemblies were held after the August 2020 elections. The Law on freedom of assembly continued to be unevenly applied, including arrests and fines, depending on the political nature of the public gathering. The Ombudsperson established that police had made use of excessive force in two cases. In June 2020, the Ombudsperson found that a soldier's right to freedom of peaceful assembly was violated by a general order of the Chief of General Staff of the Armed Forces banning soldiers from attending religious rallies.

Issues of **labour and social rights** are further covered in *Chapter 19 – Social policy and employment*.

Regarding **property rights**, the process of restitution of properties expropriated in the past remains slow and Montenegro still needs to ensure fair restitution proceedings within a reasonable time. The lack of harmonised approach in the application of property rights in the case law of the Supreme and Constitutional Courts remains an issue of concern. A systemic follow-up including through revision of the legal framework, will be needed to address the shortcomings in the expropriation of land in the coastal zone as identified by the ECtHR. Women face difficulties in practice when claiming inheritance and property rights in divorce proceedings.

In the field of **non-discrimination**, draft Amendments to the Law on prohibition of discrimination, are yet to be finalised to ensure full compliance with EU provisions. The Ombudsman's capacities as anti-discrimination body improved and the office has the necessary competences to handle discrimination complaints. However, the overall institutional framework remained insufficiently prepared to address the increase of multiple forms of discrimination, in particular in the context of the COVID-19 crisis. In 2020, the Ombudsperson's Office received 220 complaints of discrimination (2019:141 cases) and 55 complaints related to labour and employment issues. Court cases in the area of non-discrimination remained rare. There has been an increase in reports of religiously and ethnically motivated attacks, hate crimes, and hate speech. The 2017 priority recommendation of the European Commission against Racism and Intolerance (ECRI) to put in place a system for collection of disaggregated data on hate crime is yet to be implemented.

On **gender equality**, the evaluation of the 2017-2031 action plan revealed shortcomings in the implementation, lack of awareness and commitment among institutions, poor gender mainstreaming, discrepancies in the application of the legal framework and weak coordination with other national strategies. The new gender equality strategy 2021-2025 and the gender action plan for 2021-2022 are pending adoption by Government. The 2021 Action Plan for the implementation of the UNSC resolution 1325 (Women, Peace and Security in Montenegro) was adopted. The 2020 Gender Equality Index for Montenegro (55) is 12 points below the EU-28 average (67.4), mostly relating to insufficient political and social participation of women, economic inequality and unequal division of responsibilities. Difficulties remain notably in relation to women's access to work, vocational training, employment and working conditions; they also remain underrepresented in political and economic decision making. There has been an increase in smear campaigns, hate speech and instrumentalisation 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. In 2020, 265 cases of domestic violence (2019: 281) were registered as criminal offences and further 2,133 (2019:1,819) by the misdemeanour courts, while specialised NGOs registered an increase of around 30% of cases in 2020 compared to previous year. It is estimated that the majority of cases of gender-based violence remain unreported. The authorities continued to cooperate with CSOs, demonstrated commitment and took concrete measure to address the situation. An evaluation of the strategy on protection from violence was completed in February 2021, showing deficiencies in the formulation of impact indicators. The new strategy is expected in 2021. Amendments to the Law on domestic violence that were under preparation are not included in the Government programme for 2021. The definitions of gender-based violence and domestic violence across legislation need to be further aligned with the Istanbul Convention and the GREVIO recommendations. Sexual harassment is still not qualified as a criminal offence. The Operational Team for combating domestic violence and violence against women continued to meet regularly. Its impact assessment is currently ongoing in accordance with GREVIO recommendations. Challenges persist with regard to implementation and monitoring of existing legal and strategic framework and policies, victim-focused support, access to justice for victims, lack of systemic approach with regard to physical protection of victims, legal qualification of acts of domestic violence and lenient sanctions. While authorities' cooperation with specialised NGOs operating shelters and offering support to victims is improving, the NGOs face limited hosting capacities and limited funding. The protocol of the work of institutions was amended to better define the scope of services of the shelters during the pandemic and recommendations for the implementation of the protocol on the treatment,

prevention and protection of women against violence and domestic violence were developed. Draft guidelines for police and prosecutors on intervention in cases of all forms of violence against women have also been prepared. Trainings and awareness-raising campaign on protection from domestic violence, violence against children and juvenile forced marriages were organised for the Roma and the Egyptian communities. Campaigns for the promotion of SOS hotlines for victims of human trafficking have been implemented.

On the **rights of the child**, the COVID-19 pandemic negatively affected the living conditions and access to education, special care and medico-social services of children, in particular those from socially disadvantaged families and children with disabilities. It also increased the risk of domestic and sexual violence. The capacities of professionals dealing with children in contact with the law were strengthened, including through provision of training on legal aid and child friendly justice for professionals. An analysis of court cases involving children was prepared by an inter-sector working group providing recommendations for further improvement of the treatment of children in civil proceedings and child friendly justice. Guidelines for the work of professional support services with children in conflict with the law and child victims and witnesses of crime were adopted. Further concrete measures need to be implemented to improve child protection legislation, as foreseen by the national Strategy for Exercising the rights of the Child (2019-2023). In June 2021, a new national Council on the Rights of the Child, which acts as an inter-ministerial coordinating mechanism, and is chaired by the Deputy Prime Minister, was constituted. Montenegro still needs to follow-up on the UN monitoring bodies' recommendations to raise the minimum age for entering into marriage, as the practice of arranged child marriages among the Roma and Egyptian communities remains a matter of concern. Since June 2020, the National SOS Children's Telephone Line is available to all users 24 hours a day, every day of the week. Necessary resources need to be invested in establishing victim support services in the health and social sector and family support and outreach services, as planned by the national strategy on prevention and protection of children from violence. In November 2020, the Ombudsperson called for suspending the construction of a home for children without parental care since these plans contravened the national commitments to de-institutionalisation.

Regarding the **rights of persons with disabilities**, alignment of the national legislation with the UN Convention on the Rights of Persons with Disabilities is not yet ensured, including with respect to the definition of disability. A new Law on professional rehabilitation and employment of persons with disabilities is under preparation. The Council for the Care of Persons with Disabilities has not met since its establishment in June 2020. The 2019-2020 Action Plan for the adaptation of public buildings for persons with reduced mobility and persons with disabilities for 2019-2020 has not been fully implemented. Persons with disabilities continue to face multiple forms of discrimination. The COVID-19 crisis significantly worsened their situation with regard to mobility, accessibility to public services and information, employment, health and education. Gaps remain to be addressed with respect to mainstreaming the rights of persons with disabilities across sectors and policies. In addition, there is a lack of a harmonised concept of disability in the legislation. However, the reform of the National Disability Determination System is under way. Strategies addressing multiple discrimination of women and girls with disabilities, de-institutionalisation and sustainable funding of family and community-based services for children with disabilities and their families are lacking.

The proposed new organigramme of the Ministry of Justice and Human and Minority Rights does not make any reference to the **rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons**. The 2021 action plan accompanying the 2019-2023 strategy was adopted in July 2021. The application of the 2020 law on life partnership of same sex

partners (same-sex partnership law) started on 15 July 2021 following the timely adoption of the key bylaws for registration of same-sex partnership. Trainings for local self-governments registry offices were provided. However, in order for this law to be fully applicable, harmonisation of further pieces of legislation is required, such as on social benefits and residence. The working group for drafting the Law on legal gender recognition has not been formed yet. The Government established the national focal point network, to promote LGBTIQ rights at the local level and monitor the implementation of the national strategy for the improvement of the quality of life of LGBTIQ persons in Montenegro (2019-2023). The visibility of the LGTBIQ community has not yet led to a substantial improvement with regard to homophobic incidents, threats and discriminations, and in terms of access to health care, justice, employment and housing. Demand for social services, psychological support, and legal aid, as well as economic and social vulnerability of LGBTIQ persons have increased due to the COVID-19 pandemic.

A work plan for further alignment of the criminal legislation with EU *acquis* and **procedural rights** standards was developed on the basis of three separate analyses on the rights of victims, rights of suspects and accused persons, as well as the rights of persons deprived of liberty. Amendments to the Criminal and Criminal Procedure Codes are foreseen for late 2021. An analysis was also prepared on the rights of juvenile suspects, victims and witnesses in criminal proceedings to support the preparation of a draft law on the treatment of juveniles in criminal proceedings also planned for late 2021. Issues remain concerning 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 overall length of proceedings. Montenegro should abolish the suspension of application of the law on victims' compensation until the date of EU accession and secure sufficient funding for victims' support without delay. Comprehensive data on free legal aid is still not available. The lawyer's strike that was ongoing between May and end of July 2021 has seriously affected enforcement of procedural rights in all types of proceedings, including urgent ones, leaving victims, defendants and other parties without legal representation.

Concerning **protection of minorities**, secondary legislation and institutional mechanisms for promoting and safeguarding rights of persons belonging to minorities have not been sufficiently implemented. The legal framework for minority councils still needs to be revised and equal representation of all minorities in Parliament remains to be ensured. Most activities in the field of employment in the framework of the minority policy strategy 2019-2023 and the action plan for 2020 were postponed to 2021 due to the COVID-19 pandemic. Greater responsibility should be given for a more efficient application of anti-discrimination and multi-ethnic policies at local level. Challenges concerning monitoring and evaluation of distribution of funding by the Fund for the Protection and Realisation of Minority Rights remain to be addressed. In 2020, the Ombudsperson handled 19 cases of discrimination against minorities referring to labour and employment, underrepresentation in public authorities, education, and cultural, linguistic and religious identity. Recent cases of hate speech, attacks and discrimination against national minorities constitute a worrying trend.

The strategy for the inclusion of **Roma and Egyptians** 2021-2025 was adopted in September 2021. It aims to align with the 2020-2030 EU Roma Strategic Framework for Equality, Inclusion and Participation and to pay special attention to antigypsyism for the first time. Challenges remain in the area of implementing the 2018 Roma seminar conclusions and 2019 Poznan Declaration commitments, as well as of the recommendations on international monitoring bodies, such as the UN, ECRI and the Committee of Experts of the European Charter for Regional or Minority Languages.

In 2020, EUR 136 000 was allocated by the government for 14 CSOs projects on protection and promotion of the rights of Roma and Egyptians. Through the Regional Housing Programme, additional 233 housing units were provided for more than 1,000 persons displaced and internally displaced Roma in Podgorica, Niksic and Berane. Around 190 Roma families in the coastal municipalities are under the threat of eviction due to privatisation of the land on which they live. Roma and Egyptians are not recognised as a separate category from other vulnerable or socially deprived groups in the eviction context. No segregated data is available on applications for legalisation of buildings lodged by Roma.

The enrolment rate of Roma and Egyptian primary school pupils decreased, with 1,793 Roma schoolchildren (929 boys and 864 girls) enrolled for 2020/2021 school year, compared to 1,803 Roma and Egyptian children in primary schools in 2019/2020. There is a slight increase in the number of secondary school pupils, namely 174 (101 boys and 73 girls; 142 in 2019/2020), and 224 children in kindergartens (106 boys and 118 girls). There are 17 university students (six male and nine female). Currently, 22 Roma and Egyptian education mediators are employed in seven municipalities and paid by the government. However, Roma education mediators can be only hired for schools having the minimum of 70 Roma schoolchildren and out of 22 education mediators, only 11 are Roma. Roma and Egyptian secondary schools pupils and Roma university students receive scholarship. In order to improve the quality of Roma education, 47 mentors have been hired to work with 169 Roma in final years of primary school and 48 mentors for 157 Roma in secondary schools within the framework of a project. There are no official data on the overall number of Roma children who should be attending school. Enrolment is done closest to the specific part of town where children live, which may lead to segregation of Roma children. Drop-out in primary schools is reduced, however, the quality of education of Roma children is still of great concern, additionally deteriorated due to the COVID-19 pandemic, when Roma schoolchildren were mainly assisted only on project basis by international organisations in terms of equipment and learning tools.

There is no data on the coverage of Roma and Egyptian children in regular vaccination campaigns. There is a need for parental education programmes on reproductive health and family planning, as well as for the increase of Roma health mediators. Currently, three Roma and Egyptian health mediators are permanently employed by the Ministry of Health. The 40 further Roma and Egyptian mediators in health, employment and social protection are foreseen to be engaged in 2021 and 2022 through projects with limited duration. They will need to be fully integrated in the system with permanent employment contracts. The coordination body for monitoring the implementation of the protocol on dealing with street children was established in the Ministry of Interior in February 2020, however, no specific results were reported. There is still no evidence that child begging and child marriages are systematically addressed.

As of December 2020, there were 996 unemployed Roma and Egyptians registered with the National Employment Bureau, representing 2% of all registered unemployed persons in Montenegro. Some 95 % of all registered unemployed Roma have the minimum level of education. Some 50 Roma and Egyptians were employed for a short period of time for seasonal works during the entire 2020. Employment levels of secondary school Roma and Egyptian pupils remains low. Measures applied by the National Employment Bureau or municipalities are not sustainable and do not address the problems of the long-term unemployment of Roma. Subsidies for Roma employment were not renewed, which creates another barrier for Roma employment. Discrimination is often barrier to employment, as well as limited functional literacy of the great number of Roma seeking employment.

With regard to **displaced and internally displaced people**, 15,254 requests for permanent or temporary residence lodged with the Ministry of Interior by May 2021. Of these, 15,119 requests have been resolved and 135 cases are still pending. For 12 394 persons, permanent or temporary residence has been granted, 295 requests have been refused and 2,430 temporarily refused due to incomplete or double requests.

On **statelessness**, since the beginning of the application of the law on foreigners in 2018, seven travel documents and four temporary residence permits have been issued to stateless persons until March 2021. The procedure for determining statelessness is ongoing for 14 persons. In addition to procedural challenges, the lack of awareness of the importance of birth and citizenship registration remains one of the underlying causes of statelessness, particularly among the Roma and Egyptians. It is important to maintain the implementation of simplified civil registration and status resolution procedures for ex-Yugoslavia refugees at national level, as well as through continuous cooperation with respective countries of origin. The newly introduced birth registration practice allowing for immediate birth registration of children abandoned by their mothers or those whose mothers are without identity documents should be harmonised and implemented in all municipalities.

In the field of **citizenship**, the Government plans to revise the law on Montenegrin citizenship and the implementing legislation. Any change to legislation in such an important area should be done in an inclusive way, bringing together all relevant stakeholders, and after broad consultations on the subject. In March 2021, the government announced its decision not to prolong implementation of the investor citizenship scheme beyond the end 2021. During the reporting period, licences were issued to three intermediary agents and two due diligence agents. By mid-2021, positive decisions on citizenship were issued for 81 applicants and 185 family members, largely for investing in hotel business and tourist complexes. Montenegro should effectively phase-out this investor citizenship scheme.

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

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

Montenegro is **moderately prepared** 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, in particular as regards the capacity to manage mixed migration flows and the integration of refugees. The Ministry of Interior has improved dialogue with the civil society and the inclusiveness of the decision-making process. However, the structural challenges hampering the criminal justice system have not been addressed, such as the widespread use of plea bargains and the narrow approach towards financial investigations.

In the coming year, Montenegro should in particular:

- limit the use of plea bargains to exceptional cases, in order to enhance the transparency and the credibility of the judicial response to organised crime through a more deterrent and consistent sanctioning policy;
- review the legal and operational approach towards financial investigations, money laundering, asset recovery, to align it with EU and international standards and practices, establish an integrated approach between all the bodies involved and provide them with the necessary legal and operational tools to create the conditions for establishing a convincing track record in this area;



→ 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, and a biometric registration system that follows the Eurodac model.

### **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 improving the access of law-enforcement agencies to key databases and increasing the number of investigators and experts in key areas.

The number of organised crime cases investigated and prosecuted continued to grow, and the number of cases adjudicated at courts nearly tripled. A well established international police cooperation continued to yield results, with unprecedented drug seizures in the country and abroad. However, the capacity to address tobacco smuggling and money laundering is not yet at the expected level. Montenegro still needs to address some systemic deficiencies in its criminal justice system, including the way organised crime cases are handled in the courts.

In the coming year, the country should in particular:

- continue to increase the efficiency of criminal investigations by: i. establishing an interoperable system with a single search feature; ii. restoring the full use of special investigative measures (SIMs), in full respect of constitutional principles; and iii. increasing the number of investigators and experts in key areas such as financial investigations, cybercrime, forensic, SIMs;
- address the lengthy duration of trials and frequent adjournments in organised crime cases; ensure a stronger mutual understanding between courts and the prosecution on some 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 in the area 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 2020, the number of police officers was reduced to 4,139, from 4,537 in 2019. The ratio of police officers remains high at 502/100,000 inhabitants (for an EU average of 326/100,000 in 2017 according to Eurostat), but, unlike most EU Member States, Montenegro includes in the police the border guards (1,284 staff members), and non-operational staff such as advisors and officers without police rank.

The **legal framework** for the fight against organised crime is largely in place and aligned with the EU *acquis*. In June 2021, the Parliament adopted the Law on internal affairs, which had been under preparation for four years. The law brings important improvements to issues relating to the recruitment, career system and evaluation of police officers. Under the new law, the police is reintegrated back into the Ministry of Interior (two years after it was established as an autonomous entity by the previous government), hence now with a stronger oversight from the Minister of Interior over police work. However, two amendments added to the text during the Parliamentary discussions at the initiative of the ruling majority provide the Parliament with a *de facto* decisional power over the appointment and dismissal of the Police Director, hence creating a risk of politicisation of the police. Merit-based appointments and procedural safeguards against political influence need to be the guiding principle in the reform of the police.

Further to the change of ruling majority, the Head of the police was dismissed and replaced by a new Head in February 2021, after a selection process involving a representative of a Human Rights NGO as observer. All the seven Deputy Police Directors were also dismissed at once, including in areas where outstanding results had been achieved in the last two years. The new organisation foresees five sectors, for which five new Police Deputy Directors were appointed. A senior police officer with extensive operational experience including as former Head of the Special Police Unit (SPU) was appointed as the new Police Deputy Director for the fight against crime.

The human resources involved in the fight against organised crime increased to 82 (from 72 in 2019), and ten positions still need to be filled. New positions were created in the department for the fight against drugs smuggling. However, this is still insufficient to cope with the workload in this area. The capacity of the Special Prosecutor's Office (SPO) has increased, with 54 staff members (from 46 in 2019), including 16 Special Prosecutors. Montenegro has not established a centralised database on organised crime and corruption, collected from all relevant authorities, which would support strategic monitoring and policy-making. The restoration of some special investigative measures (SIMs), that were suspended further to a 2018 Constitutional Court ruling, is pending legislative amendment to the criminal procedure code.

The Asset Recovery Office (ARO) currently has five staff members and acts as ARO contact point for foreign AROs and for the Camden Asset Recovery Inter-agency Network. It now has access to the databases of the Property Administration, the Central Bank and the Tax Administration. The access to other important databases, such as the Customs Administration, is yet to be established.

In November 2020, the Administration for the Prevention of Money Laundering and Terrorism Financing (or FIU) was readmitted to the EGMONT group, 11 months after its membership was cancelled, when the FIU ceased to exist under its previous legal form and was established within the police. However, in the context of the reorganisation of the police in March 2021, the FIU was again administratively dismantled and its Head was dismissed (as one of the previous Deputy Police Directors). It was recreated under a new administrative name, the Department for Financial Intelligence Affairs, with the same staff and same mandate, as a sector of the police under the Ministry of Interior. The FIU has maintained its 30 staff members, including 17 working directly on cases. Its analytical capacity was increased with the development of an electronic Case Management System and upgraded hardware equipment, which allows electronic exchange of information on suspicious transactions between State bodies, in line with MONEYVAL recommendations.

In June 2021, the Parliament adopted yet another set of amendments to the Law on the prevention of money laundering and terrorism financing, to reflect the new setting of the FIU and to align it with the new Law on internal affairs. The two laws confirm the FIU's operational independence and autonomy. This administrative adjustment aims at ensuring the compliance with the Financial Action Task Force (FATF) standards and the EGMONT group's criteria. However, the law has yet to be aligned with the fourth and fifth EU Anti-Money Laundering Directives. The Law on International Restrictive Measures and the Law on Games of Chance have yet to be amended.

A National Risk Assessment on Money Laundering and Terrorism Financing was adopted in 2020, after a broad consultation process. It lays down the country's main challenges and priorities in the area of money laundering and terrorism financing and sets the obligations of all concerned institutions and stakeholders.

In the area of firearms, a revised Law on weapons aimed at aligning the rules on legal production, acquisition and possession of weapons with EU standards, is pending adoption.

#### Implementation and enforcement capacity

International drug smuggling and gang-related murders remain typical features of Montenegro's criminal scene. Some 13 gang-related murders occurred in Montenegro in 2020 and 5 homicides involving Montenegrin criminal groups occurred abroad, including in Spain, Germany, Austria and Greece.

The capacity to investigate organised crime continued to grow. The number of cases brought by the police to the SPO almost doubled in 2020, with 76 cases compared to 39 in 2019. The SPO conducted 25 investigations in organised crime cases, targeting 178 people and 22 legal entities. Some 273 people were indicted in 2020 (for 95 in 2019) as well as 57 legal entities. In April 2021, the police arrested in Kotor the alleged leader of one of Montenegro's main criminal groups, the so-called Kavač clan, in a large police operation conducted in cooperation with an EU Member State and with the support of Europol. Charges were brought against him and 13 other members of the group. Five more arrests and the prevention of at least five homicides took place in the first three months of 2021. In August 2021, the police arrested five alleged members of the Škaljari clan across several locations in the country, following an investigation, also supported by Europol, into planned assassinations and attacks targeting members of the prosecution and the police.

The constant increase in the number of investigations in the last two years has resulted in a surge of court judgements and convictions in 2020. There were 63 organised crime cases adjudicated by the Podgorica High Court in 2020 (against 329 defendants), from 22 in 2019 and 15 in 2018. Some 51 final convictions were pronounced, including 44 cases based on plea bargains. As regards serious crime, 222 convictions were pronounced (for 170 in 2019), including 125 plea bargains. The use of plea bargains continued to be widespread in organised and serious crime cases, with sentences, fines and asset confiscations disproportionately low compared with the gravity of the crime. The trend was confirmed in the first three months of 2021, with six more convictions, all based on plea bargains. Sentences in the context of plea bargains ranged from three months to two years and six months of imprisonment and fines from EUR 1,500 to EUR 40,000. In other cases adjudicated without plea bargains, including for aggravated murder, sentences went up to 18 years of imprisonment. The use of plea bargains needs to be limited to exceptional cases, in order to enhance the transparency and the credibility of the judicial response to organised crime through a more deterrent and consistent sanctioning policy.

As regards **the access of law-enforcement agencies to key databases**, four units of the police are now connected to Europol's Secure Information Exchange Network Application (SIENA) secure communication channel, a crucial improvement for the proactivity and efficiency of investigations: the unit in charge of combating drug smuggling, the financial intelligence unit, the unit in charge of the fight against organised crime and the unit in charge of the fight against serious crimes. However, the access of law enforcement agencies to national databases is not always automatic and, in some cases, requires time-consuming prior requests. A new cooperation agreement, paving the way for a system of automatic data exchange in the area of organised crime between key institutions, was signed in May 2021, including by the Central Bank and the Public Revenue Office, managing the cadastre.

The number of communications exchanged with foreign police services through Interpol and Europol decreased in 2020, to respectively 48 634 and 3 998, due to reduced exchange flows worldwide. However, **international police cooperation** continued to play a strategic role in the fight against criminality despite COVID-19 constraints. Ten Montenegrin crime group

members were arrested abroad in 2020. In April 2021, two high-ranking members of one of Montenegro's main crime groups were arrested in Portugal and eventually extradited to Montenegro. Eight tons of cocaine were seized abroad in relation to Montenegrin crime groups (39 kg in 2019) in cooperation with foreign police services. Eight members of organised crime groups were also arrested in Montenegro based on arrest warrants from foreign Interpol offices.

Montenegro expanded its participation in the European Multidisciplinary Platform against Criminal Threats (EMPACT) for weapons and explosives, facilitation of illegal migration, cybercrime, synthetic drugs, cocaine, cannabis, heroin and environmental protection. In September 2020, Montenegro engaged 103 officers in the Joint Action Days for South East Europe, Europol's operation focused on irregular migration, drug and arm smuggling that had gathered 34 countries. Other Joint Action Days (JAD), such as JAD Danube 5 and JAD Mobile 3 brought tangible results, such as seizures of vehicles and vessels, detected forged documents, seized tobacco and drugs, and the prevention of smuggling of 52 migrants by sea. The EMPACT platform for combating narcotics was instrumental for unveiling drug smuggling chains and contributed to number of arrests and to large drug seizures. In 2021, the Montenegrin police is a co-leader in two operational actions under the EMPACT Firearms Operational Plan. Montenegro also chairs another cooperation platform, the Southeast Europe Police Chiefs Association (SEPCA), and provides support through its observer status in the European Network of Fugitive Active Search Units (ENFAST).

Cooperation with the EU Agency for Law Enforcement Training (CEPOL) is well established, since the signature of a cooperation agreement in 2011. At present, Montenegro is a partner in CEPOL's Partnership against Crime and Terrorism project in the Western Balkans (WB PaCT), a three-year project that launched in October 2020.

The number of **financial investigations** continued to rise. The Special Prosecutor's Office conducted 25 financial investigations regarding 104 people and 14 legal entities in 2020, for 15 in 2019. Most of them are large, complex and resources-demanding investigations. In most cases, the financial investigation was launched after the criminal investigation with the aim of proceeding to an extended confiscation, but the number of cases where the financial investigation was launched in parallel with the criminal investigation increased. Standard operating procedures for conducting financial investigations are being used. Training of staff continued in this area. The centralised bank account register of the Central Bank includes only resident bank accounts, which hinders the collection of information on non-resident accounts. The incomplete land cadastre hampers the efficiency of financial investigations and asset confiscations.

Montenegro's capacity in **asset recovery** is progressively improving but the number of final confiscations remains limited. Some 15 final confiscation decisions were issued in 2020. Some EUR 5,8 million were returned to the State budget in 2020 as a result of confiscations. Twelve decisions on temporary seizures were issued, including substantial real estate, vehicles, bonds and money. The Asset Recovery Office played an increasing role in detecting and tracing assets, with 84 requests for verification received in 2020 (from 37 in 2019), including 64 of them received from foreign partners. However, in order to increase the volume of confiscations and durably hit criminal organisations, Montenegro needs to revise its legal framework regarding asset confiscation, by introducing modern concepts such as the confiscation of assets of equivalent value, in cases when the proceeds of the crime itself cannot be found.

The track record on **combating trafficking in human beings** continued to improve in 2020. Seven trafficking cases against nine defendants were pending at the Podgorica High Court in

2020 (compared with three cases in 2019 and one in 2018). Two first-instance convictions were issued, with sentences up to eight years of imprisonment. Fourteen investigations into trafficking in human beings and five preliminary investigations were carried out.

Montenegro has now a stronger institutional capacity to address trafficking in human beings, through a system made of several multidisciplinary bodies for the strategic, operational and protection dimensions. The Team in charge of identification, referral and initial assistance to victims, which includes representatives of the police, health, social professionals and one NGO, identified 52 victims in 2021. Among them were 21 women and 10 children. All the children were from the Roma and Egyptian communities, and were victims of forced beggary or forced marriage. The identified victims were sheltered in specialised shelters and the children are integrated to the school system. The most prevalent form of exploitation, amongst the cases detected, remained labour exploitation but no case of organised trafficking for sexual exploitation has been unveiled in recent years. The Ministry of Interior allocates grants to NGOs to conduct protection and awareness raising activities but the shelter run by one of the partner NGO remained closed for several months due to administrative problems. The Judicial Training Centre created a vocational training module for judges and prosecutors on trafficking in human beings. Montenegro still needs to improve its capacity to detect large-scale trafficking networks, in particular for sexual exploitation, and to better prevent trafficking in human beings activities amongst seasonal labour migrants, through a stronger involvement of the Labour Inspectorate. A more robust criminal justice response to trafficking in human beings needs to be provided, with shorter legal proceedings, more deterrent sentences, systematic confiscation of the proceeds of crime, and the establishment of a victim-compensation system. The selection of NGOs for victim-protection activities needs to be based on past experience and expertise.

As regards **firearms**, the number of seized weapons went down to 514 in 2020 (from 990 in 2019), of which 287 were firearms. However, the number of firearms seized at borders increased to 31. There were 206 convictions in cases relating to smuggling, carrying or possession of weapons in 2020. However, the number of cases concerning specifically illicit trade of weapons with a cross-border element remained low. Montenegro has yet to amend its criminal code in order to incriminate trafficking of firearms under a specific provision, in compliance with UN Firearms Protocol, and not together with other types of violations. Montenegro's data collection and reporting system on firearms have yet to be standardised, for both law enforcement authorities (with respect to arrests and seizures) and the judiciary (with respect to prosecutions and convictions). The ballistics laboratory is still in the process of being accredited and not yet linked to the Firearms Focal Point. Storage facilities need to be modernised, to address the insufficient safety of existing storage for firearms, ammunition and explosives.

The initial track record on **money laundering** was further developed, with 31 preliminary investigations launched, three times more than in 2019, and more cases reaching the courts. The Podgorica High Court had nine on-going money-laundering cases against 308 defendants (individuals and legal entities), of which seven were new cases (compared to six case pending in 2019). However, no final decision on money laundering was issued in 2020. The complex Atlas Bank case, in which 248 defendants were indicted in April 2019 for creating a criminal organisation, money laundering and tax evasion, was sent back to the Special Prosecutor's Office for further investigation. Montenegro needs to establish an integrated approach among all bodies involved in the criminal justice chain to address money laundering more effectively and develop a track record of final convictions.

Montenegro's capacity on **cybercrime** is progressively growing, but it is still not robust enough to face global threats in this area. The number of cybercrime investigations rose from

four in 2019 to 19 in 2020 (against 22 individuals and one legal entity). The courts had four on-going cybercrime cases in 2020. Two first-instance convictions were pronounced, including one with a prison sentence. The responsible police unit has now five posts. Changes in the internal organisation of the police allow now the recruitment of staff without police background for highly specialised functions, such as IT specialists. The police's specialised hardware and software was upgraded. The Forensic Centre has now a fully operational digital laboratory equipped with modern digital forensic equipment.

In the area of **tobacco smuggling**, the police unveiled yet another smuggling network of ten people operating in the free zone of the Port of Bar in October 2020, suspected of causing damages to the State budget of up to EUR 18 million. One new investigation into tobacco smuggling associated with organised crime regarding 12 people was launched in 2020. In July 2021, the SPO launched an investigation into the theft of 1,160 packages of cigarettes worth 500,000 euros in the Port of Bar. However, there was no conviction in this area, neither in 2020 nor at the beginning of 2021. In July 2021, the government announced the start of a legal process to prohibit storage of tobacco products in the port of Bar. Montenegro needs to further strengthen its capacity to address tobacco smuggling throughout the whole judicial chain, by improving its track record of final convictions and asset confiscation in this area.

On **witness protection**, protection measures were applied to seven people compared to three people in 2019. In cases falling under the competence of the SPO, extra-judicial protection measures were implemented with regard to 25 people in 2020.

## **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. The National Drug Observatory is embedded in a newly created Directorate for the prevention of drug abuse in the Ministry of Health. It remains understaffed and continues to have reduced budget autonomy.

Good technical and scientific capacity exists in the Institute of Public Health, forensic laboratory and other institutions dealing with drug-related issues, but data collection on drugs is not compliant with the EU standards. National data sets are not provided to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) in the requested form and timelines. In 2020, Montenegro provided for the first time in five years a national drug report to the EMCDDA.

The National Early Warning System is 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 multi-disciplinary Task Force for the Early Warning System on New Psychoactive Substances has been set up. The strategy for the prevention of drug abuse 2013-2020 came to an end and is yet to be replaced by a new one.

Montenegro needs to strengthen its National Drug Observatory, increase the technical capacity of the National Early Warning System and provide the conditions for full participation in the activities of the EMCDDA and the Reitox network, including the ability to provide national data.

### Implementation and enforcement capacity

Montenegro continued to be a key transit country for drugs, as a part of the Balkan route, in particular for cannabis produced in Albania and transiting through Montenegro towards the

EU. The authorities seized 3.1 tons of drugs in 2020 (from 2.4 tons in 2019), mainly marijuana. In two prominent cases, the Montenegrin police in close cooperation with Albanian police unveiled criminal groups smuggling marijuana from Albania, leading to the arrest of 27 people and the seizure of 2.7 tons of marijuana on the territory of Montenegro. In August 2021, police seized more than one ton of cocaine worth EUR 100 million near Podgorica, in the largest seizure in the country's history.

Montenegro actively participates in drug-related multi-country police operations. In 2020, this led to a total amount of 8 tons of cocaine and 46 kg of marijuana seized abroad. In August 2021, following a 9-month long operation investigating the Montenegrin Škaljari criminal group activities in the Spanish Canary Islands, the Spanish authorities arrested four Montenegrin citizens and seized over 400 kg of cocaine and nearly half a million euros in cash. The operation involved Spanish, Montenegrin and Albanian authorities, as well as Europol and the use of Europol's SIENA.

In 2020, nine investigations into drug smuggling associated with organised crime were conducted against 17 people. The courts issued eight convictions for drug smuggling associated with organised crime in 2020, including seven convictions based on plea bargains. Some 158 convictions for drug smuggling associated with serious crime were issued (from 126 in 2019), of which 127 were based on plea bargains. In three cases, assets were confiscated for a total amount of EUR 12,390 and one vehicle.

The insufficient storage capacity for seized drugs has yet to be addressed. Montenegro has yet to amend 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 is yet to be aligned with European standards and there is still no legal framework that regulates terrorist content online. A strategy on preventing and countering violent extremism for 2020-2024 was adopted in February 2020 and is being implemented. However, Montenegro has yet to adopt the strategy for the prevention and countering of terrorism, money laundering and terrorism financing, which expired in 2018. Coordination should be enhanced between the two closely interconnected strategies, to avoid overlap and working in silos. Montenegro also does not have yet a comprehensive national threat assessment in the area of fight against terrorism.

In June 2021, the Bureau for Operational Coordination of Security Services established a National Interdepartmental Operational Team for Countering Violent Extremism, Terrorism, Money Laundering and Terrorism Financing, which involves various ministries and public administrations as well as representatives from non-governmental organisations. A new National Coordinator for counter-terrorism and for the prevention of violent extremism was appointed further to the dismissal of the previous ones in the context of the reorganisation of the Ministry of Interior.

The institutional capacity on critical infrastructure was increased with the creation of a new department of three staff members for the coordination and protection of critical infrastructure within the Ministry of Interior. The by-laws to the Law on critical infrastructure, setting the criteria to define critical infrastructures, were adopted. 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 measures foreseen and submitted its second and third reports on January and August 2021 respectively.

#### 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 2020 and the first three months of 2021. Standard operational procedures for early detection of manifestations of violent extremism were drafted and numerous trainings held. However, the multi-disciplinary team on prevention of violent extremism established in May 2019 suspended its work in October 2020 when the previous National Coordinator for the prevention of violent extremism was dismissed. Montenegro needs to address all forms of extremism, including violent right wing extremism and ethno-nationalist extremism, in line with the EU and EU Member States' policy on prevention of violent extremism and terrorism.

Montenegro does not have any convicted for terrorism detained in prison. The prison administration continued to participate in several donors funded projects strengthening its capacity to prevent violent extremism and radicalisation. Montenegro actively participates to the EU Radicalisation Awareness Network to support and enhance community engagement and raise awareness within all communities.

In the 2016 election-day coup attempt case, the Appeal Court in 2021 revoked the first instance judgment from 2019 against 13 defendants (including two Russian and eight Serbian citizens), found guilty of terrorism. The case was returned to the High Court for retrial with a new panel. Several investigations into terrorism financing were conducted in 2020, including checks of 37 people on suspicions of terrorism financing and of two people on suspicions of links to terrorism.

Montenegro continued to cooperate closely with Interpol and Europol, to contribute to the Terrorism Risk Assessment and Analysis for the Western Balkans and the Terrorism Situation and Trend Report. In October 2020, the police participated in the Joint Action Days on extremist propaganda on internet, and, in April and May 2021, in the Days on Pro-Right-Wing Terrorist Online Content. The use of Europol tools and products for the fight against terrorism has increased, thanks to the establishment of a direct connection of the Special Police Unit to Europol's SIENA communication channel. The number of communications exchanged through SIENA on counter-terrorism was 242 in 2020 and 167 during the first five months of 2021. Montenegrin police actively participates in the activities of the three pillars of the Integrative Internal Security Governance, including the Western Balkan Counter Terrorism Initiative, and contact persons have been appointed for each of them.

Threat assessment needs to be conducted in a more analytical and inclusive way, in order to create a common understanding of main threats and risks amongst the concerned stakeholders, with a special attention to hybrid and cyber threats.

#### **Legal and irregular migration**

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

Montenegro's legal framework in the area of legal and irregular migration is largely aligned with the EU *acquis*. A draft strategy on migration and reintegration of returnees for the period 2021-2025 is finalised.

The EU-Montenegro **readmission agreement** is facilitated by implementing protocols concluded with 15 EU Member States. Montenegro has 11 readmission agreements with non EU-countries, including all Western Balkan partners and Turkey. The requests sent in July



2019 to Pakistan, Iran, Iraq, Morocco and Algeria, to start readmission negotiations with them, remain unanswered so far.

#### Implementation and enforcement capacity

Both legal and irregular migration sharply decreased in 2020 against the backdrop of the COVID-19 pandemic. Travel restrictions and the slowdown of tourism have reduced the demand for seasonal workers. Some 34,755 temporary residence permits were issued in 2020, an 18% drop from 2019.

The arrival of migrants fell by 60% compared with 2019, with 3149 migrants apprehended in 2020. Until mid-April 2021, there were 735 apprehensions, mostly of Afghan, Moroccan, Bangladeshi and Pakistani nationals. This is 44% less than during the same period last year. Montenegrin authorities prevented 293 illegal exit border crossings and 3,858 illegal entry border crossing in 2020. The Special Prosecutor's Office conducted two investigations into migrant smuggling in 2020. In one case, final convictions were issued regarding eight people. The Montenegrin authorities are not hosting evacuees from Afghanistan.

On two occasions, the border police prevented the smuggling of migrants on the Adriatic Sea in direction of Italy and disembarked respectively 52 and 39 migrants and crewmembers, now under investigation for migrant smuggling. The EMPACT platform for combating migrant smuggling was instrumental in making these arrests. Montenegro closely cooperates with Europol's European Migrant Smuggling Centre (EMSC).

As in previous years, secondary movements continued to add to migration, in particular those created by readmission from Bosnia and Herzegovina, but with reduced numbers. Montenegro readmitted 312 third-country nationals from neighbouring countries in 2020 under bilateral readmission agreements, of which 278 from Bosnia and Herzegovina. Readmission from Montenegro to neighbouring countries decreased to 245 people, mainly to Albania (208). Only ten voluntary returns were processed in 2020 (from 41 in 2019), against the backdrop of global travel restrictions. Seven returns were processed by the border police to neighbouring countries. Three returns were processed to origin countries by the International Organisation for Migration (IOM), within the Assisted Voluntary Return and Reintegration (AVRR) programme, supported by the EU and EU Member States. The process of voluntary returns is hampered by the absence of consular missions of countries of origin in Montenegro. Despite the administrative obstacles, 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** continued to be implemented satisfactorily, with the number of readmission requests from EU Member States and Schengen associated countries continuing to decline (212 requests for readmission of 315 people in 2020, of which 110 requests concerning 203 people were answered positively). In January-March 2021, Montenegro received 33 requests for readmission concerning 43 persons and gave 17 positive answers concerning 27 people. The return rate dropped from 50% in 2019 to 42% in 2020 reflecting the overall trend over the past years.

Montenegro still does not have a modern system of identification and registration of migrants with fingerprints, connected to a central biometric database. The border police cooperates with the European Border and Coast Guard Agency (Frontex) for the eventual establishment of a biometric registration system that follows the Eurodac model. 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 setting up a modern migrants' data collection system.

## **Asylum**

### Institutional set-up and legal alignment

Montenegro's legal framework is largely aligned with the EU *acquis*. It was further strengthened with the adoption of two by-laws to the asylum law. Since February 2021, the whole asylum and migration policy is centralised in the directorate for Administrative Affairs, Citizenship and Foreigners of the Ministry of Interior.

The Ministry of Interior coordinates the delivery of assistance to people under an international protection status. Montenegro has now 37 people under an international protection status and 18 of them are entitled to financial assistance. The assistance package has a duration of three years and includes financial assistance, access to health care, education, employment, free legal aid, language courses and psychosocial assistance. Accommodation is provided during two years (with the support of the UNHCR).

Montenegro continues to receive international support for strengthening the capacities of the staff of the Asylum Directorate. The Directorate cooperates with the European Asylum Support Office (EASO). An enhanced cooperation within a roadmap, tailor-made for Montenegro and implemented by EASO, is under preparation.

### Implementation and enforcement capacity

The possibility to lodge asylum requests was temporarily suspended in March 2020, against the backdrop of the COVID-19 pandemic, but was restored in September 2020. The downward trend in migration and the temporary suspension of the registrations resulted in a lower number of asylum requests. Some 2,829 migrants expressed their intention to request asylum in 2020, thus completing the first step of the asylum procedure (a 64% drop from 2019). However, only 539 of them eventually lodged an asylum request (a 72% drop from 2019), of which 7% were women and 6% were children, while the other applicants left the country before the second step. Moroccan nationals, followed by Algerian, Iranian and Afghan nationals, made most of the requests lodged. However, after lodging their asylum request, most of the applicants also left the country. Some 43 interviews were conducted and eight asylum seekers, all of whom were nationals of Iran, received refugee status in 2020, including one woman and one child. They all benefit from an integration plan. Nine appeal claims were lodged at the administrative court in 2020. Until 22 August 2021, 187 asylum requests were lodged, 41 interviews were conducted, and 10 asylum status were granted.

Since August 2020, the registration of people intending to seek asylum has been conducted in the Božaj transit centre only, near the border with Albania, although the asylum law allows for declaration of intention at any police station or at the border. Legal counselling provided by NGOs is available to asylum seekers. Interpretation is available upon request in Farsi, Arabic, Turkish and Russian languages, while the Asylum Directorate has a permanent interpreter for Arabic, Berber, French and English.

Despite the small number of people actively pursuing their asylum claim until the end of the procedure, delays continue to hamper the refugee status determination process. The regular six-months deadline is usually exceeded and the decisions are delivered either under the exceptional deadline of 6 to 21 months, or even after this exceptional deadline. Montenegro should further strengthen its refugee status determination capacity and issue decisions within the regular deadline and, in any case, never beyond the exceptional deadline of 21 months. Since the beginning of 2019, the Administrative Court has annulled 19 negative decisions delivered by the Asylum Directorate, that had all been made on the basis of the safe third country concept. The understanding and use of key legal concepts such as the safe third country need to be improved.



## **Schengen and external borders**

### Institutional set-up and legal alignment

The implementation of Montenegro's Status Agreement with the European Union intensified the cooperation between Montenegro and the European Border and Coast Guard Agency (Frontex) and created new opportunities for the transfer of EU good practices. A first joint operation, launched under the Agreement in July 2020, deployed teams of the European Border and Coast Guard standing corps to Debeli Brijeg, a border crossing point (BCP) with Croatia. In October 2020, a joint maritime operation aimed at strengthening blue borders' surveillance was launched, the first fully-fledged maritime joint operation implemented by Frontex in a non-EU country. Montenegro currently has only one Frontex National Focal Point despite the increased level of cooperation.

Montenegro's situational awareness and reaction capacity have substantially improved since the establishment of its National Coordination Centre (NCC) in 2019. The NCC, which is Frontex' main cooperation partner within the Status Agreement, follows in real-time live pictures delivered from one observation aircraft and one helicopter, provided under the Status Agreement, and from nine BCPs (while four additional BCPs are yet to be connected). The NCC alerts the Regional Coordination Centres when an intervention is needed. However, some equipment and connections to other national surveillance systems, which would ensure a full coverage of critical areas, are still missing. Two representatives of NCC are deployed to Frontex Headquarters in Warsaw as a part of the joint operations.

The integrated border management strategy (IBM) 2020-2024 is in line with the EU *acquis*. However, there is no earmarked budget allocation for the implementation the strategy, which relies largely on expected Donors' support. Montenegro continued to upgrade its border management equipment, in accordance with its Schengen Action Plan, with the support of the EU and other Donors. However, there is no monitoring tool to follow the level of fulfilment of the Schengen Action Plan relating to equipment and to prioritise the purchases.

Montenegro has yet to establish an operational Advance Passenger Information System.

### Implementation and enforcement capacity

The number of posts in the border police is 1,364, of which 1,321 are recruited, for a border of 840 kilometres. The gap between existing staff and staff needed, according to the Schengen Action Plan, is 650 border police officers, which poses critical challenges in the field. Prevention and reaction capacities are insufficient even in strategic areas, where the borders are the most under pressure. There is no human resources and capability development planning. To compensate the lack of staff, the army is occasionally deployed to support the border police, in case of migratory pressure. The insufficient autonomy of the border police in criminal investigations hampers the development of its analytical capacities and intelligence on smuggling networks.

Out of the 3,149 migrants registered in 2020, 643 were apprehended at the border. Some 3,858 migrants were prevented from illegally crossing the state border into Montenegro. Some 99 forged documents were seized. In the first three months of 2021, 417 migrants were prevented from illegally crossing the border and five forged documents were detected.

Bilateral cooperation with neighbouring countries on border management continued to be good, despite the drastic reduction of joint border patrolling in the context of the pandemic. Only 723 joint patrols were conducted in 2020, including 570 joint patrols on the border with Albania. In October 2020, a new six-lane joint BCP was opened in Vračnovići-Deleusa, at the border with Bosnia and Herzegovina, the second BCP of that size in the country. A joint

border traffic agreement with Bosnia and Herzegovina was signed in December 2020. While the demolition plan of 29 cross-border alternative roads with Serbia, agreed in March 2019, is completed on the Montenegrin side, 15 other alternative roads to Serbia and 13 roads to Bosnia and Herzegovina still need to be demolished.

Montenegro continued to cooperate actively with Europol and Interpol on countering cross-border criminal activities, and to participate in Frontex' Western Balkans Risk Analysis Network. Montenegro needs to continue to strengthen its capacity in border management and address the critical gaps in human resources and equipment. Border surveillance should be further strengthened in close cooperation with Frontex.

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

Montenegro continued to align its legal framework in the area of judicial cooperation in criminal matters. The agreement on extradition between Montenegro and the United Kingdom and Northern Ireland and the protocol amending the Additional Protocol to the Convention on the Transfer of Sentenced Persons were ratified and entered into force in July 2020. In the area of judicial cooperation in civil matters, Montenegro has taken initial steps 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's cooperation with Eurojust continued to increase. Twenty-four cases involving Montenegro were opened in Eurojust in 2020 (a 57% increase compared with 2019), including 12 cases launched by Montenegro, mainly relating to organised crime, money laundering and drug trafficking. A dense exchange of judicial information with Member States took place through Eurojust. There are two Eurojust contact points in the country, of which one is the national correspondent for terrorism matters. No joint investigative team was established. In 2021, Montenegro was involved in three cases. Cooperation should be established with the European Public Prosecutor's Office (EPPO), which started its operational activities on 1 June 2021. Against the backdrop of the COVID-19 pandemic, the volume of judicial cooperation fell by 22% in 2020 compared with 2019. Some 784 cases of mutual legal assistance in criminal matters were processed and 671 cases in civil matters. The main partners continued to be the Western Balkans and the EU Member States.

## 2.3. ECONOMIC CRITERIA

	2012-17 average	2018	2019	2020
<b>Montenegro - Key economic figures</b>				
<b>GDP per capita</b> (% of EU-27 in PPS) <sup>1)</sup>	43	48	50	46
<b>Real GDP growth</b>	2.3	5.1	4.1	-15.2
<b>Economic activity rate of the population aged 15-64 (%)</b> , total <sup>1)</sup>	61.5	64.7	66.2	61.5
<i>female</i>	55.1	57.2	59.1	54.7
<i>male</i>	67.8	72.3	73.3	68.3
<b>Unemployment rate of the population aged 15-64 (%)</b> , total <sup>1)</sup>	18.4	15.5	15.4	18.3
<i>female</i>	18.3	15.3	15.9	18.8
<i>male</i>	18.4	15.6	15.0	17.8
<b>Employment of the population aged 15-64</b> (annual growth %)	2.5	3.2	2.6	-10.1
<b>Nominal wages</b> (annual growth %)	1.0	0.1	0.8	1.3
<b>Consumer price index</b> (annual growth %)	1.6	2.9	0.5	-0.8
<b>Exchange rate against EUR</b>	1.0	1.0	1.0	1.0
<b>Current account balance</b> (% of GDP)	-13.7	-17.0	-15.0	-26.0
<b>Net foreign direct investment, FDI</b> (% of GDP)	12.0	6.9	6.2	11.2
<b>General government balance</b> (% of GDP)	-5.0	-3.9	-2.0	-11.0
<b>General government debt</b> (% of GDP)	60.1	70.1	76.5	105.1

*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 Turkey at ministerial level each year.*

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

Montenegro has made **some progress** and is **moderately prepared** in developing a functioning market economy. The country experienced a sharp recession in 2020 as the COVID-19 pandemic took a heavy toll on its tourism-dependent economy, with large negative spillover effects on private consumption, investment, employment, trade and public finances. To support citizens and the economy, authorities implemented several economic support packages, including wage subsidies, loan moratoria and temporary tax reductions for businesses and citizens. These measures were, to a large extent, well targeted, transparent and of a temporary character, avoiding market distortions while preventing an increase in the number of bankruptcies. In spite of some delays due to the pandemic, the government continued implementing some of the envisaged reforms of the business environment. An orderly government transition in the middle of the crisis preserved the effectiveness of the COVID-19 policy response. The new government managed to mitigate fiscal risks by

accumulating sizeable fiscal buffers to cover 2021 financing needs, including for additional COVID-19 support programmes. The financial sector remained stable during the crisis, as a result of its strong pre-crisis position and the support measures implemented by the authorities, but the delayed impact of the crisis on bank balance sheets calls for close monitoring of the financial institutions.

Last year's recommendations were addressed to a large extent. 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 foreseeing a meaningful reduction of the budget deficit and the public debt ratio;
- strengthen fiscal governance by setting up an independent body for fiscal oversight;
- support the economy by reducing public sector arrears and deadlines for VAT return;
- further reduce institutional and legal obstacles to swift and effective NPL resolution and ensure sound credit risk management, a transparent display of asset quality and adequate provisioning;
- develop and implement concrete actions and measures to reduce the informal economy.

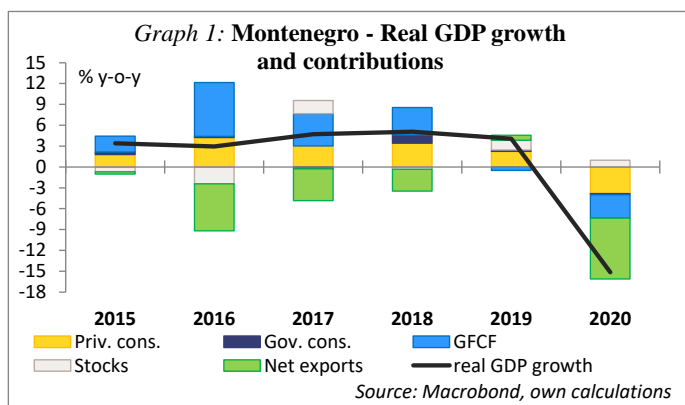
### Economic governance

**One of the first measures of the new government was to reaffirm its commitment to the EU path.** Combating the COVID-19 pandemic while finding a balance between stabilizing public finances and supporting economic activity quickly became top priorities. Despite the change of government, there has been a continuity in the policy response to the crisis. The governments implemented five socioeconomic support packages totalling some 6% of GDP in 2020 and additional 7% of GDP in 2021 (including loan support programmes). Measures combine direct wage subsidies, favourable loan programmes, tax deferrals and other actions targeting the most vulnerable sectors. Montenegro has also received rapid emergency support from various international institutions, including EUR 60 million Macro-Financial Assistance from the EU, whose final instalment was disbursed on 1 June 2021, after Montenegro fulfilled all policy conditions. The new government's Economic and Reform Programme (2021-2023), adopted with a delay in April 2021, projects a rather ambitious fiscal consolidation path relying on a quick recovery of the economy, a fall in public investment spending and a tight control of current expenditure.

### Macroeconomic stability

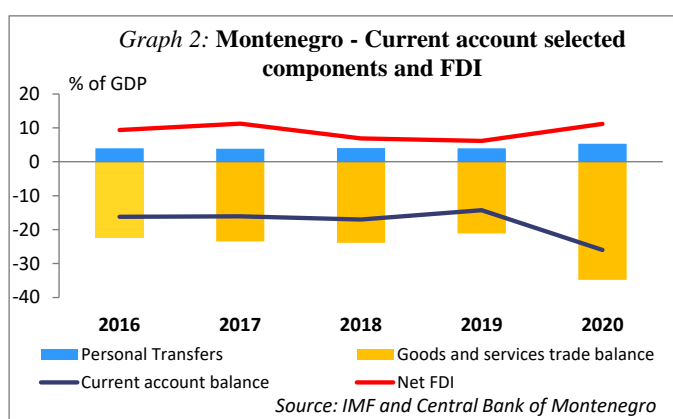
**After recording a relatively fast pace of growth in the previous five years, Montenegro suffered one of the deepest recessions in Europe in 2020.** The COVID-19 outbreak had an overwhelming impact on Montenegro's tourism-dependent economy as this sector accounts for more than 20% of GDP, while 74% of all jobs are in the service sector. Therefore, the collapse in foreign tourist arrivals in 2020 contributed to a massive contraction of the economy by 15.2%. The negative performance of net export was the key trigger of the recession, but not the only one. Social distancing measures and the closing of retail shops and catering services depressed private consumption too, while weak business confidence and a high degree of uncertainty constrained investments. Rising government expenditures could only partially cushion the deep recession. Overall, rapid growth in the pre-crisis years brought Montenegro's per-capita income in purchasing power standards from 41% of the EU-27 average in 2014 to 50% in 2019, to fall back to 46% in 2020 due to the COVID-19 crisis.

The economy still suffered from the restrictions to contain the epidemiological situation in the first quarter of 2021, with real GDP contracting by 6.4% y-o-y. Strong base effects, the easing of containment measures and some pick-up in tourism activity turned annual growth positive in the second quarter, as retail sales surged by 19.6% y-o-y, exports rose by 53.4% y-o-y, while the rise in domestic demand also fuelled a sharp (28.6% y-o-y) increase in imports.



### The collapse in tourism revenue

further aggravated Montenegro's chronic external imbalances. The dramatic fall in services exports, in particular tourism, affected Montenegro's traditional surplus on the services account, which shrank to 4% of GDP in 2020, down from 20% of GDP a year earlier. Despite a significant contraction of goods imports, a small surplus of the primary balance and relatively resilient remittances, this pushed the current account deficit to 26% of GDP, compared to an average of 14.9% of GDP in the previous five years. The current account deficit eased somewhat to 19.5% of GDP in the four quarters to June 2021, driven by a revival of services exports and remittances, also reflecting statistical base effects. However, the recovery in domestic demand also boosted imports, widening the merchandise trade deficit and preventing a more pronounced reduction of the current account deficit.



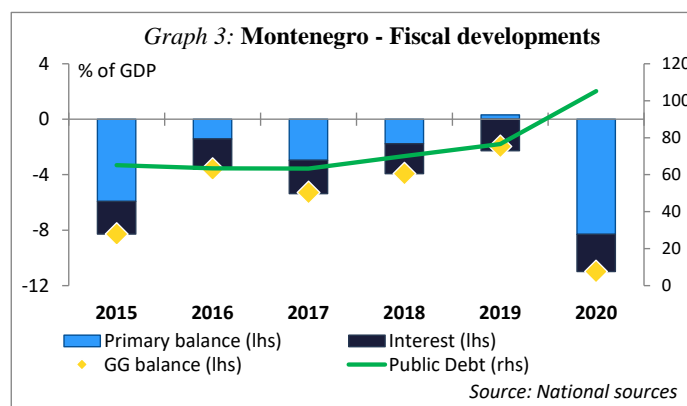
Net FDI inflows remained high in 2020 thanks to a reduction of capital outflows. Overall, net FDI totalled 11.2% of GDP in 2020 compared to 10.1% on average in the previous five years, thus covering 42.9% of the current account deficit. The rest of the deficit was financed through reserves and new debt issuance. However, the increase in net FDI was driven by a substantial drop in FDI outflows in 2020, after the temporary surge in outflows in 2019 due to the buyback of the electric power company's shares from a foreign investor. Net FDI eased to 9.4% of GDP in the four quarters to June 2021. The reimbursement of maturing sovereign debt using government deposits reduced the stock of international foreign exchange reserves from the equivalent of 8.2 months of imports at the end of 2020, to 6.8% in June 2021.

**Net FDI inflows remained high in 2020 thanks to a reduction of capital outflows.** Overall, net FDI totalled 11.2% of GDP in 2020 compared to 10.1% on average in the previous five years, thus covering 42.9% of the current account deficit. The rest of the deficit was financed through reserves and new debt issuance. However, the increase in net FDI was driven by a substantial drop in FDI outflows in 2020, after the temporary surge in outflows in 2019 due to the buyback of the electric power company's shares from a foreign investor. Net FDI eased to 9.4% of GDP in the four quarters to June 2021. The reimbursement of maturing sovereign debt using government deposits reduced the stock of international foreign exchange reserves from the equivalent of 8.2 months of imports at the end of 2020, to 6.8% in June 2021.

**The demand shock resulting from the pandemic, along with falling oil prices, resulted in negative inflation for most of 2020.** The use of the euro as legal tender means that the Central Bank of Montenegro cannot influence the money supply, which is determined by flows of the balance of payments. Inflation averaged 1.5% in the period 2015-2019. In 2020, food was the main inflationary driver; however, transport (and notably fuel prices) worked in the opposite direction. As a result, prices declined by 0.8% on average in 2020. As the economy showed some signs of recovery and global commodity prices started increasing in early 2021, inflation turned positive. In June 2021, consumer prices grew by 2.8% y-o-y.



**The country's fiscal position, which had deteriorated already before the COVID-19 due to large debt-financed infrastructure projects, suffered a further blow from the pandemic-induced crisis.** Since the beginning of the construction of the first section of the Bar-Boljare highway in 2015, budget deficits have remained high, averaging 4.6% of GDP annually in 2015-19. The sharp contraction of the economy, combined with government discretionary support measures, produced a large budget deficit of 11% of GDP in 2020. The strongest negative impact (-13.1% y-o-y) came on the revenue side, driven by the loss of the tourism season. Expenditure rose by 4.8% y-o-y due to fiscal support measures in spite of the government's efforts to reallocate spending from the capital budget, which was cut by one third, into healthcare. The Ministry of Finance and Social Welfare approved temporary financing for the first six months of 2021, as the adoption of the state budget was delayed. The recovery of economic activity and the introduction in January 2021 of electronic cash registers boosted tax revenues, contributing to a significant reduction of the budget deficit over the year. In the first seven months of 2021, the central government deficit amounted to 2.6% of the projected GDP, compared to 6.5% in the same period a year before. In June 2021, the central government debt declined to 89% of GDP, including government deposits estimated at 9.4% of GDP.



**The large budget deficit and the contraction of GDP in 2020 led to a substantial increase in the debt ratio.** Overall, public debt surged to a record-high 105% of GDP at the end of 2020. To meet increased financing needs, the previous government secured funds from the IMF, the EU, the World Bank and other international financial institutions, totalling some 6% of GDP. In December 2020, the new government borrowed EUR 750 million through a Eurobond at favourable terms to build buffers and cover financing needs in 2021. In March 2021, the government repaid a maturing bond of EUR 228 million, still leaving EUR 584 million in the cash reserve (or around 12.7% of estimated GDP).

**Montenegro has been confronted with a major crisis under exceptional circumstances.** Its small tourism-dependent economy faced a major shock while its already weak public finances constrained the available fiscal space. Yet, the authorities' policy response to the crisis was timely and well targeted, adjusting its coverage as the situation evolved. In spite of an historical change of government in the middle of the crisis, the new administration avoided radical changes and adopted rather prudent economic and fiscal policies.

### Functioning of product markets

#### *Business environment*

**The COVID-19 palliative measures managed to contain the number of bankruptcies so far.** The number of bankruptcies totalled 785 cases in 2020, practically the same number as in 2019, reflecting to some extent the efficacy of the policy response to maintain companies alive during the recession. However, the government support that cushioned businesses will eventually have to be withdrawn. Meanwhile, the number of new registered businesses in 2020 declined by 23% over the year, as pandemic-related uncertainties delayed new investment decisions in spite of further facilitation for registering companies. Thus, electronic

registration of companies was introduced in December 2020 for single-member limited liability companies.

**Further progress was recorded in the reduction of the tax burden.** The number of local taxes and fees has been cut. In addition, a registry of fiscal and para-fiscal charges on state and local level was established in March 2021, facilitating business processes and increasing transparency. The new government decided to discontinue the programme of granting Montenegrin citizenship in exchange for investment in the country due to its poor results. Overall, the number of active e-services on the government's electronic portal increased to 575 in 2020, although most of them remain informational, and electronic payments under e-government services remain underdeveloped. The first electronic public procurement system was launched in January 2021. Montenegro's alternative dispute resolution mechanisms relies on the bailiff system for enforcement of debt claims. However, the system for collection of claims needs to be reinforced, as indebtedness of local businesses remain a major challenge. In March 2021, there were more than 19,000 frozen bank accounts (almost one third of registered businesses), totalling claims worth EUR 809 million (or 17.6% of GDP). The issue of informality in Montenegro mainly concerns informal wages and some informal labour, rather than unregistered firms. As a result, a significant proportion of the population is reliant on the informal economy, suffering disproportionately during the economic downturn, as they did not qualify for wage subsidies like in the formal economy. So far, government's fight against informality relies primarily on the control measures, a more efficient work of the inspection services and the deployment, in 2021, of new systems of electronic fiscal invoices and for electronic management and security printing of excise stamps.

#### *State influence on product markets*

**State influence on the economy remains rather limited, also in terms of price formation.** Moreover, the Agency for Protection of Competition is playing a more active role to eradicate undue State aid. The bankrupt state-owned Montenegro Airlines has been the main beneficiary of state aid for several years. In December 2019, the government adopted a law granting Montenegro Airlines EUR 155 million (around 3% of GDP) over the next six years. However, the Agency for Protection of Competition ruled against this decision in September 2020. In April 2021, a pre-bankruptcy procedure was introduced at the request of the revenue and customs administration, putting an end to a long trajectory of state support to the national airline. The Agency also investigates public aid granted to the two national maritime companies. Since the outbreak of the COVID-19 pandemic, the government adopted a series of measures providing support to businesses and employees to mitigate the negative economic impact of the pandemic. In order to enhance the transparency of public support granted and prevent undue state aid, the government set up in November 2020 a public register of COVID-19 related measures.

#### *Privatisation and restructuring*

**The privatisation process has been practically concluded but the new government is engaged in the review of past deals.** A few companies, mainly in transport, tourism and utilities remain left in public ownership. The privatisation council has established a commission to audit past privatisation contracts. Meanwhile, the new government has replaced the management at several state-owned companies. In August 2021, the government set up a company (named Montenegro Works) to advise and supervise the financial situation of all state-owned enterprises (SOEs) and support the implementation of reforms aimed at improving their management. After halting operations of the indebted Montenegro Airlines in December 2020, the government registered a new national airline, purchasing two planes and

launching the recruitment procedure for technical staff from the former national airline. The new company started its first flight on 10 June 2021. Meanwhile, efforts to attract private investors through concessions have lost momentum. Following the finalisation of the prequalification tender for a 30-year concession of the two international airports (Podgorica and Tivat), the concession process has been kept on hold as the new government is yet to decide whether the tender will be cancelled or continued.

## Functioning of the financial market

### *Financial stability*

**Montenegro's banking system entered the crisis in a strong position with solid capital and liquidity buffers.** In 2019, before the onset of the COVID-19 pandemic, the system-wide ratios for regulatory capital was 19.8%, return on equity 9.0%, return on assets 1.2% and non-performing loans (NPLs) 4.7%. This situation, coupled with regulatory measures, allowed the banking sector to absorb the crisis impact so far. The Central Bank of Montenegro adopted nine packages of temporary measures, including several loan moratoria, reduction in reserve requirement rates and a ban on dividends. The capital adequacy ratio of the banking system remained high, at 18.5% at end-2020 and 19.2% in June 2021, albeit profitability declined markedly in 2020. Meanwhile, temporary crisis support measures, including credit restructuring, helped containing NPLs, which rose only slightly, to 5.45% at the end of 2020 and to 5.70% in June 2021. On 8 September 2021, the central bank presented the preliminary results of an asset quality review of all commercial banks evaluating the soundness and quality of financial balance sheets. Overall, the COVID-19 crisis further tested the resilience of the financial sector. So far, key financial sector indicators have been stable. However, as the temporary crisis support measures expire, the number of impaired loans is set to rise due to the unprecedented recession, warranting enhanced supervision and policy preparation by the authorities.

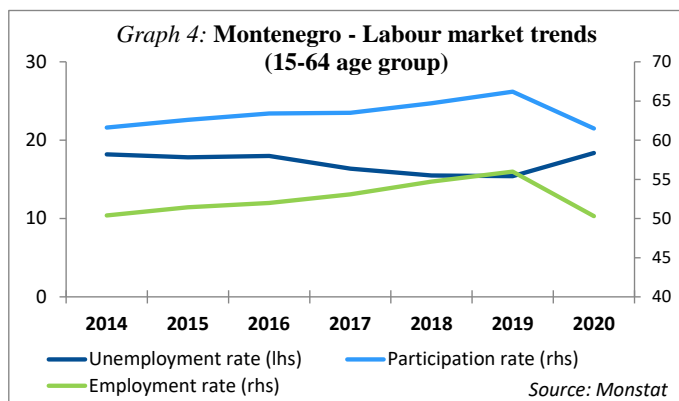
### *Access to finance*

**Credit growth decelerated in 2020 but picked up again in early 2021.** Banks tightened their criteria for approving new loans as the economic crisis worsened in 2020. Consequently, credit growth decelerated to 3.2% y-o-y in 2020, down from 4.5% a year before, to rebound by 6.8% y-o-y in June 2021. Moreover, the crisis reduced banks' deposit stock by 3% y-o-y in 2020, before it strongly rebounded by 11.4% y-o-y in June 2021. The number of banks declined from 15 to 12 as two small banks were closed in 2019 and another two banks merged in December 2020. As a result, the share of foreign ownership in bank's capital totalled 85%, with a further 13% owned by domestic investors and 2% by the government. Overall, credit risks remain high, resulting in expensive interest rates. This presents a major obstacle for businesses, in particular small ones. To alleviate the situation, the state-run Investment and Development Fund established several credit lines with the support of EU funds, to provide loans at subsidised interest rates.

**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 (i.e. 0.75% of GDP in 2020), while the assets of insurers and micro-financial institutions represent around 1.5 % of GDP each.

## Functioning of the labour market

**The COVID-19 pandemic erased five years of labour market improvement.** Conditions deteriorated quickly despite measures adopted by the government to help companies retain jobs. In 2020, the unemployment rate (population aged 15-64) increased by 3 pps. to 18.4%, a level not seen since 2014. Furthermore, the labour force shrank by 7% y-o-y, as 20,000 workers dropped out, discouraged by the severity of the crisis and the lack of opportunities in a confined economy. The COVID-19 crisis only added to an already poor situation. Active labour market policies appear insufficient to increase markedly employment opportunities for jobseekers. As a result, long-term unemployment remains high and chronic, concerning 74.7% of all unemployed in 2020. Skills mismatches remain another significant challenge, in particular for persons with vocational education training or higher education. Montenegro's tax wedge remains relatively high, especially for low-wage workers, contributing to labour informality. Moreover, the structure of the social benefits system discourage women from re-entering the labour market, as the financial return required to work (i.e. reservation wage) tends to increase with the number of children. This is also reflected in their much higher inactivity and lower employment rates compared to men. Thus, in 2020, the female inactivity rate was 45.3% compared to 31.7% for men, while their unemployment rate was only 1 pp. higher than men's (17.8%).



### 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 COVID-19 pandemic demonstrated that a lack of diversification makes Montenegro's tourism-dependent economy highly vulnerable to shocks. Some efforts have been made to improve innovation capacities and introduce EU standards at local companies thanks to public grants, but these remain modest compared to the scale of the challenge. The quality of the educational system and curricula preferences appear inadequate to raise human capital and to address skill mismatches. Modern telecommunication and energy infrastructure is being deployed rapidly, but there is a substantial deficit in transport infrastructure, hindering the integration with regional and EU markets. In addition, the low sophistication of domestic products, the small size of local companies and low level of participation in external markets represent major obstacles for increasing competitiveness and diversifying the economy.

As some of the 2020 recommendations have not been fully implemented, in the coming year Montenegro should in particular:

- improve dual VET and tertiary education programmes in close cooperation with business associations;
- develop transport infrastructure without endangering fiscal sustainability;
- facilitate and promote SMEs exports.

## Education and innovation

**Investment on research and development (R&D) continues to increase, but the country remains a modest innovator.** While the government support for R&D has continued to rise steadily since 2017, the modest level of investment limits the ability of enterprises to innovate and develop new products, but also for absorbing new technologies from abroad. The new science and technology park (STP) in Podgorica is still under construction, while the STP Tehnopolis in Nikšić is more advanced, with continuous technological upgrade and skills development. The country continued to participate in EU research programmes. The adoption in July 2020 of the laws on innovation activities and incentives for research and innovation development introduced fiscal incentives for developing the digital economy and the functioning of the national innovation system. Meanwhile, important secondary regulation to define the eligibility of the R&D tax incentives is being developed.

**Montenegro's education system is facing numerous challenges.** Schoolchildren lag behind international peers according to numerous ratings. The COVID-19 pandemic delayed remedial actions for improving the quality of education based on results from the 2018 PISA tests. Skills mismatch remains a persistent challenge for VET and higher education. Tertiary educational attainment remains lower than the EU average, and there is an oversupply of business and humanities graduates, contrasting with a shortage of medical, technology, and mathematics graduates. The result is a chronic occupational mismatch in relation to labour market opportunities. A more intense participation of business associations in the development of dual VET programmes could help reduce this gap. Overall, the COVID-19 pandemic contributed to a rapid development of the digitalisation of the education system but not of its quality.

## Physical capital and quality of infrastructure

**The COVID-19 pandemic and the very late adoption of the 2021 budget delayed investment in infrastructure and equipment.** In 2020, construction activity contracted by 5.6%, and gross fixed capital formation by much deeper 12.3%. After a two-year delay, completion of the first section of the Bar-Boljare highway is planned in 2021. Construction of the next section depends on the outcome of feasibility studies and the setup of a viable financing scheme. Railway upgrading continues slowly, with the repair of some bridges and track sections in 2020. Fast and reliable broadband networks are crucial for the digitalisation of the economy. Overall, around 93% of households have access to at least 2 Mbit/s connection, 80% have access to 30 Mbit/s, and only 30% use ultrafast (100 Mbit/s) service. Although 98.6% of local enterprises use computers, only half of their employees have internet access. In May 2021, one local telecom company started 5G network testing in real conditions. Several projects of electricity transmission and interconnection with neighbouring countries are underway. The reconstruction of the Pljevlja thermal power plant to comply with modern environmental standards was delayed. The Energy Community launched a procedure against Montenegro after the thermal plant exceeded the agreed number of operating hours. Meanwhile, renewable sources of electricity production are being diversified with several wind, solar and hydropower projects underway. Offshore oil and gas exploration drilling started in March 2021.

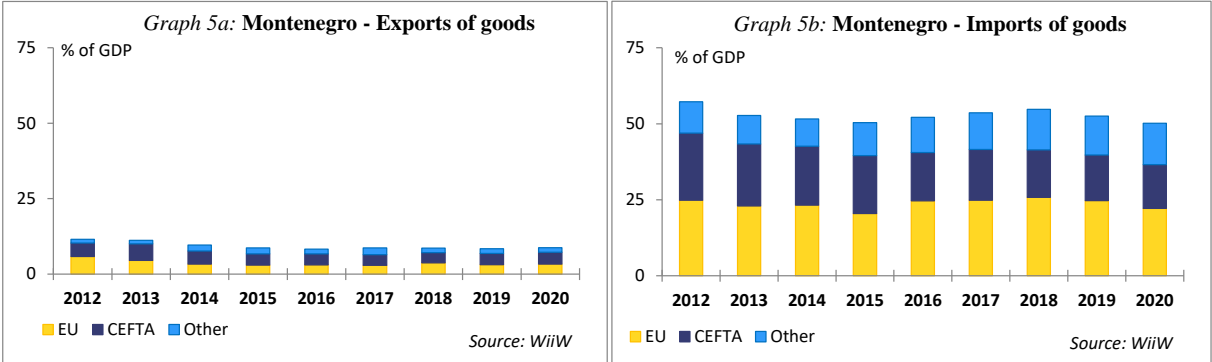
## Sectoral and enterprise structure

**The structure of the economy remains broadly unchanged despite the crisis.** The share of employment in services remained practically unchanged during the pandemic, accounting for 74.1% of total employment in 2020. By subsectors, some marginal decline (by 1 pp) could be

observed in retail trade, accommodation and food services, the parts more affected by the crisis. Other sectors, such as information and communication, expanded their activity during the pandemic; however, this increase was barely reflected in new jobs. The largest growth in 2020 was related to professional, scientific and technical activities, reaching 6% of total employment in 2020, compared to a modest 2% historical average. The development of tourism, energy and transport infrastructure in recent years has been reflected in a continuous growth in construction, from 6.6% in 2015 to 9.9% of total employment in 2019, falling to 8.4% in 2020 as many works were delayed due to the pandemic. Agriculture and industry account for 7.5% and 18.4% of jobs respectively in 2020, with little change over time. The small size of local companies limits output performance. Practically, 99% of companies are small or medium sized, of which 92% are micro enterprises. Furthermore, only 7% of local firms are involved in exports.

Economic integration with the EU and price competitiveness

**The COVID-19 pandemic slowed the otherwise strong trade integration with the EU.** During 2020, Montenegro’s foreign trade contracted by 18.1% compared to the previous year, while bilateral trade with the EU saw a similar contraction of around 16% y-o-y. The EU remains Montenegro’s main foreign partner, accounting for 44% of its total trade (i.e. 38.5% of total exports and 45.1% of total imports of goods). This compares to 31.2% of total trade with CEFTA countries. The EU also remains the main source of FDI inflows for Montenegro, even if its share decreased markedly to 27.0% of total FDI inflows in 2020, as compared to 42.1% in 2019. The low level of processing of local products and the modest size of businesses hinder export competitiveness. Montenegro’s largest exports concern low value-added products in bulk, namely aluminium, bauxite and electric current. These three items alone made up 42% of total merchandise exports in 2020.



**The COVID-19 crisis had a negative impact on Montenegro’s trade openness ratio.** The collapse of the 2020 summer tourist season sunk services exports to 4% of GDP, compared to 20% of GDP a year earlier. Moreover, merchandise trade also fell sharply, with exports and imports of goods declining by 12.2% and 19.0% y-o-y, respectively. As a result, the total exchange of goods and services plunged from 108.5% of GDP in 2019 to 86.3% in 2020. To succeed in EU or regional markets, and considering the rigidity of its monetary regime, Montenegro would need to improve substantially the competitiveness of its products, services and companies.

**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.*

Montenegro is **moderately prepared** on public procurement. Overall, **good progress** was achieved in 2020, with improvements in the remedy system, adoption of the secondary legislation to the laws on public-private partnerships and public procurement and regulation of procurement rules in the area of defence and security. Last year's recommendations were met to a substantial degree. Furthermore, the ongoing implementation of the new, electronic public procurement system from January 2021 is a big step forward on transparency and efficiency of the public procurement processes.

In the coming year, Montenegro should:

- fully implement the electronic public procurement system;
- fully respect the EU public procurement principles 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 new laws on public procurement and on public-private partnership entered into force in July 2020. Secondary legislation to both laws (some 30 different legal acts) was adopted as scheduled, despite COVID-19 crisis, including on defence and security procurement. Implementing legislation on simple procurement (low value procurement, below the thresholds regulated by the procurement law) was also adopted, repealing around 650 individual acts of contracting authorities governing that area before. The 2019 action plan for reforms in this area has been completed.

The electronic **public procurement system** has started operating in Montenegro in January 2021. The new electronic system introduces new quality and transparency in the Montenegrin public procurement system. It also constitutes an important step in improving the regulatory environment and in supporting efforts aimed at reducing the informal economy and corruption in the country. The migration of public procurement procedures from paper-based procurement to the new system should occur gradually throughout 2021. By June 2021, there were close to 2000 registered users of the system (contracting authorities and economic operators).

A tender for the concession to operate Airports of Montenegro, launched in October 2019, was suspended in 2020. The process, once reactivated, would be a test for the government's determination to follow the EU standards of fair and transparent public procurement, providing value for money, competition and strong safeguards against corruption. Full compliance with the EU rules 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 13.1% of GDP in 2020 and the value of all public procurement procedures amounted to some EUR 545 million.

On the **monitoring of contract award and implementation**, the Public Procurement Inspectorate has systematized and filled vacancies for all eight inspectors and the Chief Inspector. The Inspectorate executed 251 controls, the number declining in comparison to 2019 due to COVID-19 pandemic. Most controls related to contract conclusion and execution phases.

The **capacity to manage public procurement** processes continued to improve, although the high number of local contracting authorities remains not conducive for efficiency. Centralised

purchasing has become more widely used for certain standard procurements, but contract management and ex-post evaluation of procurement processes are still rare. Lowest price as the only award criterion was applied in 61% of all procedures in 2020. It should be highlighted that the new procurement regulations, which apply from July 2020, impose the application of the most economically advantageous criterion as a default option.

**Directorate for Public Procurement Policy** in the Ministry of Finance and Social Welfare employs currently 19 people (out of 21 envisaged positions). Systematic countrywide trainings, on the new legal framework in public procurement, were attended by almost 600 procurement officers. In addition, 33 new procurement officers passed the professional exam and got public procurement qualifications.

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

#### Efficient remedy system

The legislation on the **right to appeal** is broadly in line with the EU *acquis*. The remedy system is based on a review of appeals by the Commission for Protection of Rights in Public Procurement Procedures (previously State Commission for the Control of Public Procurement - PPC), an independent administrative body reporting directly to Parliament. The decisions of the Commission are now published on the public procurement portal, increasing the transparency of the remedy system. Appeals against its decisions can be made to the Administrative Court.

The Commission handled 268 cases in 2020, including 240 complaints referring to open public procurement procedures and 18 judgements of the Administrative Court, which overturned the previous decisions taken by the State Commission. There was no case backlog in 2020. The complaints were treated on average within 18 days from the date of submission of complete documentation of the case by the contracting authority.

The number of appeals from the PPC decisions decreased further to 38 cases by the end of 2020 (32 complaints related to cases handled in 2020). Only one decision of the Commission from 2020 was overturned by the Administrative Court, which marks a significant improvement over the previous period.

#### **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. **Some 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 such as government finance statistics, the need to improve systematic cooperation and coordination of tasks between the Ministry of Finance, the Central Bank of Montenegro and Monstat, as well as the lack of transmission of some fundamental datasets such as government finance statistics, financial accounts and excessive deficit procedure tables.

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;
- allocate sufficient resources for organising the national population and housing census and organise it in line with EU requirements and recommendations.

**On the statistical infrastructure**, Monstat is the main producer and overall coordinator of statistics. Respect of the professional independence of Monstat, in line with the Montenegrin law, as well as of Montenegro's commitment to political non-interference in official statistics (in line with the signed Commitment on Confidence), are of the utmost importance. Full adherence to those principles and laws, as well as to the European Statistics Code of Practice, is expected in regard to the management of Monstat. The current number of employees in Monstat is slightly above 50% of the number of posts on the organisation chart (97 out of 169). A new building to host the Statistical office has still not been provided, although the public procurement for the building was finalised in 2020.

In the context of the COVID-19 pandemic, Monstat opened the COVID-19 internet domain, containing relevant information, and created a list of 60 indicators that are of special relevance as regards monitoring the COVID-19 crisis and its consequences.

**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, and in terms of data transmission standards. In the area of business registers, Montenegro is highly compliant, even though it needs to improve the quality of the register.

In the area of **macroeconomic statistics**, the data series for annual Gross Domestic Product (GDP) 2006-2019, Gross National Income (GNI) 2010-2019 as well as quarterly GDP data up to the fourth quarter 2020 are available in accordance with ESA 2010 methodology. However, it is necessary to update and extend the GNI inventory and to provide full GDP quarterly data by production, expenditure and income, as well as quarterly data in seasonally adjusted form. Experimental data for 2019 about the number of employees and salaries of employees (according to national accounts concepts) were transmitted to Eurostat. With regard to price statistics, the harmonised index of consumer prices and purchasing power parity working methodologies (HICP/PPP inventory) have been updated and submitted to Eurostat. All mandatory and optional data elements of international trade in goods statistics (ITGS) are provided on time. As regards implementation of the new transmission format for ITGS, Montenegro did not yet provide any test data. Full alignment with the new transmission format was postponed to 2021.

There continues to be no government finance statistics sent to Eurostat. As regards excessive deficit procedure data, tables are still sent mostly empty. The Ministry of Finance and Monstat need to agree on the way forward, the division of activities, and both of them need to have the required human resources.

In the area of **business statistics**, Montenegro provides good quality road freight data on a regular basis in line with the EU *acquis* requirements. In the area of short-term business statistics, transmission is timely and time series length satisfactory, with the main

shortcomings being in the services and industry sectors. Structural business statistics are medium compliant, while business demography statistics are currently not sent to Eurostat.

In the area of **social statistics**, a draft law on census of population, households and dwellings in 2021 is under preparation and pending adoption. The conduct of the national census upon schedule in 2021 faces several challenges, including the delayed adoption of the draft law, the effective budget allocation, the epidemiological situation in Montenegro as well as timely input from other institutions. The data of the Labour Force Survey (LFS) for the fourth quarter 2019 - third quarter 2020 was published, including data enabling the analysis of the impact of COVID-19 on the labour market.

In the area of **agricultural statistics**, in 2020, for the first time, Computer-Assisted Personal Interviewing (CAPI) method of data collection was applied for crop production for five municipalities, and additional questions were included to report on climate change. In order to prepare for the upcoming agricultural census, a development plan for improvement of agricultural statistics for the period 2020-2023 was prepared, as well as the self-assessment of agricultural statistics, outlining all activities needed to be accomplished before the agricultural census.

In the area of **environmental statistics**, Montenegro is highly compliant with EU standards in waste statistics. However, it does not report waste-related data according to other reporting obligations, such as data about packaging waste, which is increasingly important as the basis for a new EU budget own resource on non-recycled plastic packaging waste. Environmental accounts are not in compliance with the EU requirements. In 2020, Montenegro conducted a major revision of data for forestry statistics for the period of 1990-2018 and published them, thus enabling the development of production account in forestry in accordance with the EU *acquis*. An experimental system for calculation of the production account in forestry was partly set up.

Structural annual **energy statistics** as well as six-monthly price statistics are fully in line with EU legislation. The energy balance covers all relevant energy produced and consumed in Montenegro. Data sets for annual energy statistics and price statistics, as well as additional reporting in the SHARES tool (renewable energy sources) are regularly transmitted to Eurostat. However, improvement is needed on monthly reporting, as monthly energy statistics for oil, coal and electricity are currently not provided to Eurostat.

## **Chapter 32: Financial control**

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

Montenegro is **moderately prepared** on financial control. **Some progress** was made in the reporting period on the implementation of last year's recommendations with the development of new strategies improving governance and public internal financial control. The State Audit Institution considerably improved its capacities and procedures (audit methodologies) to perform different types of audits, in line with international standards. It also set the basis for a more efficient follow-up of audit recommendations and for a more open and transparent communication with the Parliament and with the general public. Some progress was also made on managerial accountability, with the adoption of a decree and a methodology on delegation of authority, and on internal audit. On the other hand, further efforts are needed to apply managerial accountability and strengthen the functioning of internal control and internal audit in public bodies and in state-owned companies. A centralised budget inspection function

is not operational yet. The coordination capacity of the National Anti-fraud Coordination Service should be further strengthened.

In the coming year, Montenegro should in particular:

- 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.

#### Public internal financial control (PIFC)

Montenegro's **strategic framework** for PIFC is partially in place. Reforms for governance and internal controls are embedded in the public financial management (PFM) and public administration reform (PAR) strategies, with new strategies elaborated for the period 2022-2026, but still pending adoption. The legislative and operational framework for internal control and internal audit is in place, covering also local government entities and state-owned enterprises. The government adopts annual reports on the implementation of the PFM and PAR strategies, as well as annual consolidated reports on governance and internal controls in the public sector of Montenegro.

In August 2020, Montenegro adopted a decree on the transfer of tasks of financial management and internal controls in the public sector, which describes responsibilities and decision-making powers that can be transferred to middle management. Additionally, methodology for the transfer of tasks was published in October 2020 and piloted in a number of institutions. Both the decree and the methodology represent the starting point for establishing a system of **managerial accountability** in the public sector. While there are no longer limitations in the legal framework preventing delegation of authority, managerial culture within public institutions continues to be highly centralised, with a low percentage of ministries that formally delegate responsibilities to line managers.

The legal and operational framework for **internal control and financial management** is largely in place and is in line with international standards. Rulebooks and methodologies for quality review and annual reporting on governance and internal control were adopted and piloted in several institutions. Capacities for risk identification and risk assessment have increased, as has the number of budget users who have adopted risk registers. A rulebook on the management of irregularities was adopted. The development of the centralised budget inspection function in the Ministry of Finance still requires setting up of clear rules for taking action upon detection of irregularities.

**Internal audit** rules, standards and practice are in line with international standards. A vast majority of institutions at central and local level have established an internal audit unit. Those who have no separate internal audit unit, in accordance with the Law on governance and internal controls in the public sector, benefit from supervision by other units, so that full budget coverage is ensured. The methodology for internal audit quality review was developed and almost all institutions have quality assurance programmes in place. Most of auditors have either a national and/or international certificate as internal auditors. They can benefit from a national internal audit training and certification system and of a long-term professional development programme for certified internal auditors. The percentage of implemented and partially implemented recommendations given by internal auditors is considered high. However, the follow-up of recommendations should be further improved and the assessment be based on the provision of actual documentation rather than on simple notification.

**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. The CHU has recently increased its capacities to ensure quality review of financial management, internal control and internal audit activities. Its annual reports contain recommendations and regularly propose activities to improve the effectiveness of the internal control systems in the public sector.

#### External audit

The functional, operational and financial independence of the State Audit Institution (SAI) is protected by the Constitution and by the established legal framework, in line with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI). The SAI has improved its **institutional capacity** in terms of management and auditing staff and is implementing its 2018-2022 strategic development plan. Most of its auditors are certified and have access to internal and international training, including quality control and assurance, ethics and integrity, according to an adopted training catalogue. The rulebook on the procedures for taking the exam of state auditor was amended in September 2020 and the manuals for preparing the exam were updated. In 2020, the SAI adopted a human resources management strategy and an action plan for the period 2021-2025.

On **quality of audit work**, the SAI adopted guidelines for the selection of financial audits and regularity audits for its annual audit plan, thus ensuring that planning is based on risk assessment and on clearly defined criteria. The annual audit plan for 2021 contains, among others, financial and regularity audit and performance audit of expenses related to COVID-19 pandemic. The SAI adopted the mid-term plan for performance audits for the period 2020-2024, which focuses on sustainable development goals.

The SAI submits annually an audit report on the government's final statement of accounts and a report on performed audits to the Parliament. The submission of individual audit reports remains an exception. In 2020, however, the Parliament did not deliberate on submitted audit reports, despite their timely submission. Furthermore, the Parliament does not ensure a structured follow-up on SAI recommendations. For this reason, and to increase the **impact of its audit work**, in June 2020 the SAI adopted the guidelines for the development, monitoring and control of the implementation of its recommendations. Additionally, the SAI adopted a communication strategy aiming to improve openness, transparency and communication with the Parliament and with citizens. All SAI reports are publically accessible.

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

The national **Anti-Fraud Coordination Service (AFCOS)** ensures the implementation of a 2019-2021 national anti-fraud strategy, which provides a basis for improving the capacity of the national anti-fraud coordination service and the functioning of the AFCOS network. Montenegro continues to ensure **cooperation** and exchange of information with the European Commission during investigations. Irregularities are managed and reported via the online irregularity management system, with five cases reported in 2020. Capacities in this domain need to be further improved. While some progress was made, further efforts are needed to ensure a solid track record on cooperation with the European Commission on investigations. With regard to its criminal law, Montenegro remains not aligned with the EU Directive on the fight against fraud to the Union's financial interests.

#### 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. The Central Bank continues to supervise the

respect of standards and ensures cooperation with the police administration and the High State Prosecutor's Office. Cooperation agreements with the European Commission, the European Central Bank for the protection of euro from counterfeiting are in place. Montenegro participates actively in the EU Pericles 2020 Programme.

### **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 cooperation 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.

The COVID-19 pandemic has accelerated the ambition to enhance regional integration, by displaying the important links between markets in the region as well as between the EU and the six Western Balkans economies. Given the European perspective of the Western Balkans, the EU has continued to treat the region as privileged partners by associating them with the Union's mechanisms and instruments, including an exemption from temporary EU export restrictions of medical equipment.

At the Sofia Summit on 10 November 2020, the six Western Balkans leaders adopted the Declaration on the Common Regional Market and the Declaration on the Green Agenda for the Western Balkans. This followed upon previous commitments taken at the EU-Western Balkans Zagreb summit in May 2020 and the recognition of the role of deepened regional economic integration to support the economic recovery of the Western Balkans. The Common Regional Market is structured around the four freedoms (free movement of goods, services, capital and people) while also covering aspects of digital, investment, innovation and industrial policy. This makes it the most ambitious regional integration effort to date in the Western Balkans. The Common Regional Market builds on EU rules and standards and represents a stepping-stone to integrate the region more closely with the EU Single Market already before accession.

The Common Regional Market will be 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. It is therefore important that all parties play a constructive role in building the Common Regional Market and deliver on their joint commitments.

The Green Agenda for the Western Balkans aims at reflecting the European Green Deal in a proportionate and adapted manner in the Western Balkans. The objective is to turn environmental and climate challenges, similar in the region, into opportunities. Given that natural resources and climate change do not know any border, the Green Agenda foresees 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 contribute to successfully implement this joint regional vision, with high level of ambition.

The Berlin Process summit on 5 July 2021 was an occasion for the Commission to announce targeted assistance related to combating the COVID pandemic and post-pandemic recovery, as well as the preparations of a 2021 financial package under WBIF for the implementation of the Economic and Investment Plan. The participants also took stock of the achievements of the connectivity agenda with the region, which now includes 45 investment projects, supported by 1bn EUR in EU grants that have leveraged 3.8 bn EUR in loans. Regrettably,

despite good technical progress, the Western Balkan partners were not able to conclude several important agreements related to the Common Regional Market and CEFTA, because of bilateral and status issues. The participating Member States and the Commission called for a constructive approach to making progress on the Common Regional Market, which will help the region take full advantage of the Economic and Investment Plan.

In July 2021, the regional agreement on roaming fees signed at the April 2019 Western Balkans digital summit in Belgrade entered into force, enabling “roam like at home” (RLAH).

In March 2021, the government withdrew support for the appointment as Regional Cooperation Council next Secretary General (2022-2024), from the candidate designated under the previous government, whose nomination was the outcome of a 2018 compromise agreement. Montenegro proposed a new candidate, following the publication of a new vacancy announcement by the SEEC Political Directors. The country continued to chair the Central European Initiative (CEI) and organised four online meetings of the Committee of National Coordinators in 2020. The CEI Plan of Action for the period 2021-2023 was adopted in December 2020. In 2020, Montenegro took over the one-year chairmanship of the Western Balkans Fund (WBF), chairing several senior officials’ meetings. The regional youth cooperation office (RYCO) registered the local branch office in Montenegro in 2020.

Montenegro has continued to cooperate closely with Bosnia and Herzegovina, Croatia and Serbia under the **Sarajevo Declaration Process**, which aims to find sustainable solutions for some 74000 people who became refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia. The construction, purchase of apartments and distribution of construction material under the Regional Housing Programme continued to progress well, nine projects were approved for Montenegro and five completed, aiming at resolving the housing needs for 681 vulnerable refugee families in Montenegro. In total, 417 housing units were delivered in Montenegro so far, which represents around 60% of the overall planned amount.

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. In December 2020, over 10 006 people were still missing as a result of the conflicts in the region. Montenegro continued to actively participate in the regional Missing Persons Group and contributed to implementation of the provisions of the framework plan signed in November 2018. The Commission on Missing Persons of Montenegro maintains records of 51 active cases, who are Montenegrin citizens or whose families reside in Montenegro. Montenegro has concluded bilateral cooperation protocols with all the neighbouring countries; this provides a solid framework for cooperation.

As regards **bilateral relations**, cooperation between Montenegro and other enlargement countries and neighbouring EU Member States continued despite the COVID-19 pandemics and there were several high level visits during the reporting period. Montenegro has bilateral conventions on regional cooperation with all partners with an SAA in force.

Relations with **Croatia** remained good overall. There have been no developments regarding the pending border demarcation between Montenegro and Croatia. The Minister of Foreign Affairs held a bilateral meeting with his Croatian counterpart on the margins of the NATO Foreign Affairs Ministers meeting in Brussels in March 2021. In May 2021, Croatian Minister of Foreign Affairs paid a visit to Podgorica. Croatia provided support to Montenegro’s health sector in the fight against COVID-19 pandemics, including a donation of vaccines to Montenegro in May 2021. For the first time in thirty years, Montenegro and Croatia jointly marked the place of war crimes in Morinj, Montenegro.

Relations with *Italy* remained good. Italian Foreign Minister visited Montenegro in March 2021 and had bilateral meetings with the Prime Minister, Deputy Prime Minister, Foreign Minister, and the Parliament Speaker.

Relations with *Albania* remained good. Maritime delimitation between the two countries remains pending. Montenegro concluded a cultural agreement with Albania regarding the Marubi museum in Shkodra.

Relations with *Bosnia and Herzegovina* remained good. Montenegrin Prime Minister, together with two ministers of his cabinet visited Trebinje to attend Bishop of Zahumlje-Herzegovina, Atanasije's funeral. The first joint EU-funded border crossing point Vracenovici – Deleusa was opened in October 2020. In May 2021, Montenegrin Prime Minister paid an official visit to Bosnia and Herzegovina.

Relations with *Kosovo* remained good. The Deputy Prime Minister visited Prizren in March 2021. In June 2021, Kosovo and Montenegro signed an agreement eliminating vehicle insurance tax for entry into their respective territories.

Relations with *North Macedonia* remained good. In January 2021, Foreign Minister of North Macedonia visited Montenegro and subsequently, in March, the Deputy Prime Minister paid an official visit to Skopje.

Bilateral relations with *Serbia* were marked by tensions, allegations of external influence during electoral periods and in connection with issues and events linked to the Serbian Orthodox Church, leading to an increase in nationalistic rhetoric. Montenegro recalled its ambassador from Belgrade in December 2020, and currently both countries are represented at the level of Chargés d'affaires. The President of Serbia visited Montenegro in November 2020 to attend the funeral of Metropolitan of Montenegro and the Littoral of the Serbian Orthodox Church. Co-operation in some areas such as the health sector intensified. In February, March and May 2021 Serbia donated COVID-19 vaccines to Montenegro and the Minister of Health visited Belgrade in March 2021. There have been no developments on issues related to citizenship rights in the two countries.

Relations with *Turkey* remained good. An agreement on providing consular emergency assistance to Montenegrin nationals in countries where Montenegro has no diplomatic or consular presence is in place. An honorary Consulate of Montenegro in Balıkesir was opened in February 2021. President Erdogan visited Montenegro in August 2021 and Minister of Foreign Affairs held a bilateral meeting with his Turkish counterpart on the margins of the NATO Foreign Affairs Ministers meeting in Brussels in March 2021. Turkey provided support to Montenegro's health sector in the fight against COVID-19 pandemic.

#### **4. ABILITY TO ASSUME 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, 6-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; electronic company registration legislative prerequisites; prevention of money laundering and terrorist financing legislative alignment; company law, with the adoption of the rulebook on the Central Register of Economic Entities; State aid and aid transparency with the strengthening of the Agency for the Protection of Competition as national State aid authority; banking area's legislative alignment; consumer and health protection's legislative alignment.

In the coming period, Montenegro is invited to focus on the following areas: continue alignment with the *acquis* on metrology and standardisation; develop the operational capacity of the Employment Agency; progress significantly towards a fully operational Point of Single Contact for services; 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 *acquis* on company law and corporate accounting; adopt a 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; implement the laws aligning with the Capital Requirement *acquis* in the banking sector.

### **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, **limited progress** was made. While the work of the market surveillance, accreditation and standardisation bodies continued as per the annual plans, some important legislative acts were not adopted and human resources and funding in the sector still remain inadequate. Last year's recommendations were not fully addressed and remain mostly valid.

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;
- ensure that the Institute for Standardisation of Montenegro (ISME) becomes a full member of the European Committee for Standardisation (CEN) and of the European Committee for Electrotechnical Standardisation (CENELEC);
- continue to align with the EU *acquis*, as envisaged in the action plan for alignment with the *acquis* under this chapter; ensure the implementation and enforcement of aligned chemicals management legislation with the EU regulatory framework.

#### General principles

Overall, Montenegro continued to gradually progress on its alignment with the EU *acquis* on the free movement of goods, as laid down in the national action plan for alignment with the EU *acquis* in this chapter. Adequate human and financial resources still need to be ensured for the standardisation, market surveillance and accreditation bodies.

#### 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 during the reporting period, but the progress slowed down due to the COVID-19 context.

#### Harmonised area: quality infrastructure

In 2020, the Institute for **Standardisation** of Montenegro (ISME) published a total of 3,038 Montenegrin standards aligned with the EU standards. By the end of 2020, the official CEN/CENELEC report evaluated the ISME adoption rate as 83 % of European standards at the national level, with 86 % CEN standards and 76 % CENELEC standards. However, full membership of ISME in CEN/CENELEC did not materialise in the reporting period. The human resources situation of ISME did not improve, as it functions with 65 % of the systematised job positions (19 out of 29). The temporarily free access to standards for personal protective equipment, medical devices, risk management, security and safety, business continuity, as well as risk and emergency management was continued in the context of COVID-19 pandemic.

On **metrology**, legal measuring units and implementing legislation on conformity assessments of legal measuring instruments were amended in accordance with the EU *acquis*. The law on ratification of the convention establishing an international organisation of legal metrology remains to be adopted.

Concerning the **market surveillance**, 35,645 product inspections were made (including seven inspections following consumer complaints). Inspectors identified 5,029 irregularities, which led to administrative measures (consisting of 1,008 misdemeanour orders and 529 decisions). The administration for inspection affairs should be further reinforced with inspectors for technical surveillance.

During the reporting period, there were 41 conformity assessment bodies accredited by the **accreditation** body of Montenegro, namely 25 testing laboratories, two laboratories for calibration, one laboratory for medical examinations, eight inspection bodies, two certification bodies for products certification and three certification bodies for certification of management systems. In November 2020, the accreditation body formally submitted the application to the European Cooperation for Accreditation (EA) for signing the EA Multilateral Agreement.

On **product safety**, Montenegro reported that 2,211 inspections were made, including 1,733 inspections in proactive surveillance and 487 inspections in reactive surveillance, identifying 789 dangerous products (42,734 items). Administrative measures were imposed accordingly, including withdrawal from the market and permanent or temporary circulation ban, destruction and return to the producer/distributor.

#### Harmonised area: sectoral legislation

On **‘new and global approach’ product legislation**, Montenegro adopted implementing legislation designed to ensure partial alignment with the EU *acquis* on construction. In the energy efficiency area, Montenegro adopted implementing legislation designed to ensure partial alignment with the EU *acquis* on eco-design and on energy efficiency labelling.

On **‘old approach product legislation’**, Montenegro adopted implementing legislation designed to ensure partial alignment with the EU *acquis* (Annexes I, V to XIII, XVII of the REACH Regulation, Annex I of the PIC Regulation). In May 2021, the government adopted the 2020 report on the action plan for the implementation of the national chemicals management strategy in 2019-2022. In July 2020 Montenegro adopted implementing legislation designed to ensure further partial alignment with the EU *acquis* on medicines for human use.

On **drug precursors**, Montenegro's list of controlled substances is designed to be compliant with the EU *acquis*. Montenegro has mechanisms in place to detect smuggled drug precursors and requires economic operators to report suspicious orders or transactions in line with EU procedures. However, national legislation remained only partly aligned. On **good laboratory practices**, national legislation is designed to be aligned with the EU *acquis*.

On **procedural measures**, Montenegro's law on the protection of cultural property is designed to align with the EU *acquis* on the return of cultural objects unlawfully removed from the territory of a Member State.

## 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, concerning in particular the area of social security schemes.

In the coming year, Montenegro should in particular continue to establish structures and develop administrative capacity to implement the EU *acquis* in the area, and in particular to increase the operational capacity of the Employment Agency.

The action plan adopted in 2019 to meet the accession requirements on the freedom of movement for workers is being implemented.

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. Procedures for handling foreigners' requests for temporary residence and seasonal employment permits through Montenegro's representations in countries of origin are yet to be finalised.

On preparation to join the European network of employment services (**EURES**) upon accession, efforts need to be stepped up to upgrade the administrative and technical capacity of the Department for EURES and International Employment Mediation within Montenegro's Employment Agency. Ongoing EU support is provided to support strengthening the operational capacity of the Employment Agency in the areas of services' digitalisation, EURES capacity building and labour mobility.

On the **coordination of the social security systems**, 25 bilateral agreements are in force, of which 16 with EU Member States. The bilateral agreement with Romania has yet to be signed. Amendments to those with Serbia and with Bosnia and Herzegovina need to be concluded.

The **European Health Insurance Card** is recognised under the law on compulsory health insurance but will be introduced only after accession. So far, Montenegro concluded agreements on the use of the card with five EU Member States (Austria, Germany, Luxembourg, Slovakia and 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. Overall, **some progress** was made during the reporting period, with good progress in electronic company registration, as per last year's recommendation, while preparatory activities for the establishment of a Point of Single Contact were limited.

In the following period, Montenegro should in particular:

- ensure electronic registration of all types of companies;
- step up efforts to establish a fully operational Point of Single Contact;
- continue inter-ministerial coordination and fully align with the EU Services Directive.

On the **right of establishment and freedom to provide cross border services**, good progress was made on electronic company registration. Secondary legislation adopted during 2020 ensures the legislative prerequisites to introduce full electronic registration of enterprises. In December 2020, the tax administration launched the eFirma portal. In the initial phase, it provides for the electronic registration of single-member limited liability companies and the administration of their registration data. Alignment of the implementing legislation with the EU Services Directive continued at a slower pace. Drafting of the decree on the Point of Single Contact for services has started, while its actual establishment would require an EU assistance project. Due attention should be given to further upgrade administrative capacity in the Services Department of the Ministry of Economic Development.

On **postal services**, the legislation is aligned with the EU Postal Services Directive. Quality standards for the provision of the universal postal services were introduced in November 2020 through the adoption of implementing legislation. In July 2020, the rulebook was amended to implement the principles on accounting separation and calculation of net cost of the universal service. Full alignment with the EU *acquis* is yet to be achieved, including with the Regulation on cross-border parcel delivery services. The 2021-2022 action plan for the implementation of the postal development strategy was adopted in July 2021.

On the **mutual recognition of professional qualifications**, Montenegro has a satisfying level of alignment with the EU *acquis* and adopted implementing legislation in the reporting period. Foreign professional qualifications are recognised in line with the national legislation. To ensure continuous alignment with the *acquis*, Montenegro should follow up on measures set out in the national plan to develop qualifications for regulated professions.

#### **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 capacity to perform checks on reporting entities, on the quality of reporting and the efficiency and independence of the relevant institutions. The government also decided to phase out **the investors' citizenship scheme** by the end of 2021. Montenegro's Administration for the Prevention of Money Laundering and Terrorism Financing (FIU) was readmitted to the EGDMONT group, an informal network of FIUs for international co-operation on the prevention of money laundering.

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

- align with the EU *acquis* on capital movements and payments, including on the acquisition of property rights and on payment system;
- update the strategic framework on the prevention of terrorism, money laundering and terrorism financing;
- strengthen the anti-money laundering supervision of the non-financial sector, particularly in high risk areas such as the games of chance, and on lawyers and notaries, by amending the law on games of chance and the law on the prevention of money laundering and terrorism financing; monitor the investors' citizenship scheme, as long as it is still running, 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. Amendments to 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, have yet to be adopted.

As regards the **payment system**, the draft law on comparability of fees charged to customers, payment account switching and access to payment accounts with basic features, and the draft law on interchange fees and card-based payment transactions were finalised and sent to the Parliament for adoption. The drafting of amendments to the law on payment system, aimed at aligning with the Payment Services Directive 2, is in the process.

Montenegro has now three licensed payment institutions and one electronic payment institution. Some 22 agents are registered in payment institutions. In 2020, the Central Bank of Montenegro performed five inspections of banks, to verify the compliance of operations with the regulations in the field of payment operations, as well as six inspections of operations of payment institutions.

In the area of **anti-money laundering and terrorism financing**, the legislative framework was further aligned with international standards, through the adoption of four bylaws on: (i) regulating the internal organisation and systematisation of the Financial Intelligence Unit (FIU); (ii) providing indicators for recognising suspicious clients and transactions; (iii) guiding the implementation of internal controls, record keeping and data protection requirements; and (iv) providing rules on exchange of data. In June 2021, amendments to the law on the prevention of money laundering and terrorism financing were adopted, to reflect the new setting of the FIU within the Ministry of Interior. The law confirms the FIU's operational independence and autonomy, with the objective to meet FATF standards and EGMONT group's criteria. 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 has yet to be aligned with EU standards. The process of alignment of the law 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) has started.

The strategy for the prevention of terrorism, money laundering and terrorism financing expired in 2018, and a new strategy remains to be adopted. Another important strategic document, the National Risk Assessment on Money Laundering and Terrorism Financing, was adopted in October 2020, through a broad consultation process. It lays down the country's main challenges and priorities in the area of money laundering and terrorism financing and defines the obligations of all relevant institutions and stakeholders.

In November 2020, the Administration for the Prevention of **Money Laundering** and Terrorism Financing (FIU) was readmitted to the EGMONT group, 11 months after its membership was cancelled, when the FIU ceased to exist under its previous legal form and was established within the police. However, in the context of the reorganisation of the police in March 2021, the FIU was again administratively dismantled and its head was dismissed. It was recreated under a new administrative name, with the same staff and same mandate, as a sector of the police under the Ministry of Interior. The FIU currently has 30 staff members, including 17 working directly on cases. Its technical and IT capacity was further increased with the establishment of a case management system that allows electronic exchange of information on suspicious transactions between State bodies, in line with Moneyval recommendations. The FIU has now direct access to Europol SIENA secure communication channel, allowing a fast, secure and efficient information exchange with Europol and EU Member States.

The number of cases processed and the number of suspicious transactions prevented continued to rise in 2020, reflecting the FIU's enhanced capacity. The FIU received 25 951 notifications of cash transactions from commercial banks, and 234 notifications of suspicious transactions from other reporting entities. The number of temporary suspensions of transactions rose to 40 (from nine in 2019) regarding 14 people and 147 legal entities, for a total amount of more than EUR 3 million, a 344 % surge compared with 2019. The Central Bank of Montenegro performed 14 controls of financial institutions in relation to the prevention of money laundering and financing terrorism in 2020, and issued warning measures towards eight of them.

In March 2021, the government decided to phase out by end of 2021 **the investors' citizenship scheme**, implemented since January 2019. So far, 81 applicants and 185 family members were granted Montenegrin citizenship in the framework of the programme. As long as it is still running, this scheme needs to be closely monitored as it poses risks related to security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime.

## **Chapter 6: Company law**

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

Montenegro has reached a **good level of preparation** on company law. **Some progress** was made in this area by adopting the rulebook on the Central Register of Economic Entities; however, the recommendation to adopt the amended Law on accounting and related rulebook on financial statements is outstanding.

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

- adopt the amended Law on accounting and the rulebook on company financial statements;
- further align with the EU *acquis* on company law, including on shareholder rights;
- complete full alignment with the Transparency Directive, including the sanctioning regime.

On **company law**, two rulebooks on business registration (in the Central Registry of Economic Entities) were adopted in September 2020, following the adoption of the Law on business organisations. Further legislative alignment is necessary with the 2019 company law EU *acquis* on the use of digital tools and on cross-border operations, as well as rules on the encouragement of long-term shareholder engagement. National legislation on company

takeovers is in line with main EU *acquis* provisions. Revision of the Corporate Governance Code is planned in accordance with key activities of the Capital Market working plan for 2021. The database of companies in the business register should be ready to interconnect with EU Member States' business registers in the future.

Work continued to develop the Central Registry of Regulated Information, which will be the official mechanism to collect and publish regulated information in accordance with the EU **Transparency Directive**, including relevant staff training. The Capital Market Authority is the 'officially appointed mechanism'. Legislative work is underway to achieve full *acquis* alignment in this area, including the sanctioning regime.

On **corporate accounting and statutory audit**, the draft law on accounting - aimed at *acquis* alignment, including non-financial reporting requirements – should be resubmitted to Parliament for adoption, following which, the rulebook on company financial statements will also need to be adopted. Currently, all companies must comply with international financial reporting standards (IFRS), 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. No irregularities were found during audit quality inspections in the second half of 2020. Following a slowdown due to the COVID-19 pandemic, regular audit quality inspections continued from February 2021. The control plan for audit companies and certified auditors was adopted in January 2021.

## 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. **Limited progress** was made as regards a new national intellectual property strategy, alignment with the EU *acquis* and improving the track record on investigations, prosecutions and judicial follow-up. Last year's recommendations remain therefore largely valid.

In the coming year, Montenegro should in particular:

- adopt a new national intellectual property strategy;
- continue legislative alignment in particular with the Trade Secrets Directive and with the Enforcement Directive as concerns measures against intermediaries and step up preparations for accession to the European Patent Convention (EPC) and the European Patent Organisation (EPO);
- improve its track record on investigations, prosecutions and judicial follow-up.

On **copyright and neighbouring rights**, legislation to align with the EU *acquis* on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use remains to be enacted by the Parliament. In June 2020, a collective management organisation of performers ("IN CG") was granted a license to operate. Ratification of the Marrakesh Treaty is pending enactment by the Parliament since April 2020.

On **industrial property rights**, legislative alignment with the EU *acquis* on patents, trademarks, and trade secrets continued. Preparation for accession to the European Patent Convention (EPC) and the European Patent Organisation (EPO), now expected in 2022, is ongoing. Relevant IPR IT tools, search engines and databases are operational and were further upgraded.

On **enforcement**, Montenegro prepares quarterly and annual updates of its statistics. The reporting format on customs enforcement of intellectual property rights remains to be fully aligned with Montenegro's future reporting obligations to the European 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. Preparation of Montenegro's new national intellectual property strategy 2022-2025 is advancing in cooperation with the World Intellectual Property Office (WIPO).

Activities of the coordination team for IPR enforcement were significantly reduced due to the COVID-19 pandemic. In September and December 2020, the Ministry of Economic Development organised the 'Days of joint action', in cooperation with the Customs Administration, Market Inspection and the Police Administration: controls of economic entities were performed and supervision at the border crossings intensified.

International cooperation with WIPO, EPO and the European Union Intellectual Property Office (EUIPO) continued through online conferences, workshops and seminars.

## **Chapter 8: Competition policy**

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

Montenegro is **moderately prepared** in this area. **Some progress** was registered by further strengthening the Agency for the Protection of Competition (ACP) as the competent authority for competition policy and State aid and by providing it with information to conduct its investigations. Progress was also demonstrated by establishing two specialised State aid registers thus contributing to transparency, by opening ten new *ex-officio* cases on State aid and through issuing three negative opinions on State aid to Montenegro Airlines.

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

- provide the State aid authority with the means and information to conclude the Montenegro Airlines case and follow up on the establishment of the new national air carrier branded Air Montenegro as well as the ongoing investigations of non-notified state aid;
- ensure transparency on all state aid decisions and operational independence of the State aid authority as well as effectiveness of its control on State aid at all levels, including the building up of an enforcement record;
- improve the track record of the Agency for the Protection of Competition on antitrust and mergers, by fully using its enforcement powers, carrying out more on-site inspections, and further promoting the use of its leniency policy.

### Antitrust and mergers

The **legislative framework** provides a good level of alignment with the EU *acquis* and the Stabilisation and Association Agreement (SAA). The Law on protection of competition is largely aligned with Article 101 TFEU on restrictive agreements and Article 102 TFEU on abuses of dominant position. The law also provides for ex ante control of mergers above certain turnover thresholds, in line with the principles of the EU Merger Regulation. A good level of implementing legislation is in place and largely in line with the relevant EU *acquis*. No further progress was achieved in legislative alignment with the EU *acquis* during the reporting period, albeit amendments to the Law on protection of competition are under approval by the Parliament.

On the **institutional framework**, the Agency for Protection of Competition (APC) is responsible for implementing the legal framework. It is an operationally independent authority and its director is appointed by the government. The powers of the APC are broadly comparable to those of the European Commission in the area of competition. Decisions are taken by the Council of the APC, appointed by the government. APC's decisions may be appealed before the Administrative Court. A leniency policy for self-reporting cartel members is in place. Fines can still only be imposed by misdemeanour courts, not directly by the APC. Amendments to the Law on the protection of competition, to confirm the APC's set up under the 2018 Law on state administration remain under approval in Parliament.

On **enforcement capacity**, the APC's administrative and financial capacities remain to be strengthened. Overall, the APC currently has 18 posts specific to antitrust and mergers out of which 11 are filled – two more than in the previous period.

On **implementation**, in the field of cartels and abuses of dominant position, two decisions have been taken in the reporting period, which are however challenged before the administrative courts. In 2020, 50 mergers were approved, compared to 62 in 2019. Two procedures were suspended and one merger was rejected. No in-depth investigation of a merger was reported. The numbers and amounts of fines imposed by misdemeanour courts remained low. Fines were paid in only one case, while in another case the entity concerned objected the fines decision and procedures are ongoing. The leniency policy was not applied, similar to the previous periods. The APC did not issue any opinion on legislation in 2020. 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 remains to be significantly strengthened.

#### State aid

The **legislative framework** is largely in line with the EU *acquis* and the SAA as well as with Articles 107 and 108 TFEU on State aid. The 2018 Law on State aid control sets out the notion of aid as well as procedural State aid rules. Implementing legislation to amend the temporary framework for State aid measures to support the economy in the context of the COVID-19 outbreak was adopted in June and December 2020. The 2019 report on State aid was published in November 2020. Specific State aid registers for COVID-19 measures and *de minimis* aid were established in October and November 2020. They are updated on a regular basis. The general State aid register was established in June 2021. The rules on the financing of services of general economic interest are largely aligned with the EU State aid *acquis*. However, Montenegro still needs to demonstrate their proper enforcement.

As regards the **institutional framework**, the Agency for Protection of Competition (APC) is responsible for implementing the legal framework. A solid enforcement track record remains to be proven. The Ministry of Finance and Social Welfare established the Department for



Coordination, Reporting and State Aid to strengthen activities in State aid and filled two out of five planned posts.

The **enforcement capacity** of the APC Council remains significantly insufficient. There are seven employees in the field of State aid, one less than in the previous year. To strengthen its expertise and enforcement capacity, the APC should undertake significant efforts towards new recruitments and related capacity building.

On **implementation**, 46 state aid decisions (29 resolutions and 17 opinions) of the Council of the APC were published in 2020, showing a significant increase from 33 decisions in 2019. The APC handled 24 cases of ex-ante control, whereas two *ex-officio* cases are ongoing, namely on Montenegro Airlines and Adriatic Marinas. In this context, the APC is also investigating the possible State aid payments during 2020 on the basis of the 2019 Law on investing in consolidation and development of Montenegro Airlines, which provided for up to EUR 155 million in state funding to the airline. The APC has issued three negative opinions in 2020, including the one not to pay aid to Montenegro Airlines on the basis of the 2019 law. In December 2020, the new government decided to close the company and a bankruptcy procedure is ongoing. 10 new *ex-officio* cases were opened by June 2021, showing an improving track record compared to two such cases opened in 2019 and none between 2013 and 2018. Out of the 12 cases in total, five cases were completed in the reported period.

The State aid authority has not yet published opinions or decisions as concerns possible State aid cases in the energy sector. The State aid authority should continue to monitor implementation of State aid rules in large projects undertaken in cooperation with third countries. For this, the State aid authority needs to have access to all necessary information to provide opinions and take binding decisions. All concerned institutions should 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 include cases where applying the laws would obstruct the performance of the particular tasks of services of general economic interest assigned to such undertakings, in line with Article 106 TFEU and with the SAA. There are no monopolies of a commercial character as provided for in Article 37 TFEU. There were no developments in the area of liberalisation in the reporting period.

## **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, with **some progress** made in the reporting period on the asset quality review and with the adoption of implementing legislation in the banking area. Last year's recommendations were partially fulfilled.

In the coming year, Montenegro should:

→ implement the legislation aimed at alignment with the Capital Requirements Directive and the Capital Requirements Regulation, including the implementing acts;

→ finalise the independent review of the asset quality in the banking system, analyse its results and prepare plans for corrective actions, if necessary.

The legislation is partially aligned with the EU *acquis* on **banks and financial conglomerates**. In the course of 2020 and 2021, the Central Bank of Montenegro focused most of its activities on monitoring the financial stability of the banking system and mitigating negative effects of the COVID-19 pandemic. The Central Bank adopted six packages of interim measures (March 2020-March 2021) aimed to preserve and increase the liquidity of companies and individuals and to mitigate the effects of decrease of bank clients' creditworthiness, caused by the pandemic.

The entry into force of laws on credit institutions and on resolution of credit institutions (aimed at alignment with the Capital Requirements Directive and the Capital Requirements Regulation) was postponed to January 2022. The implementing acts related to these laws (38 different legal acts) were adopted and should become applicable in 2022, too. The delay is motivated by the COVID-19 outbreak and the necessity to commit the banking system participants to the implementation of the mitigation measures. Thanks to the actions taken by the central bank, the main indicators for the banking sector remain positive, with the ratio of non-performing loans increasing only slightly, to 5.5% of total loans in May 2021 and the solvency ratio reaching 19.3% in May 2021, well above the statutory minimum of 10%.

The independent review of the asset quality in all 12 banks present on the Montenegrin market, which started in February 2020, continued. Due to delays caused by the pandemic, the review is to be completed by the end of 2021.

Montenegro's rules on **insurance and occupational pensions** are partially aligned with those of the EU and are primarily based on Solvency I rules. In the course of 2020, the Insurance Supervision Agency 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.

On **financial market infrastructure, securities markets and investment services**, the Capital Market Authority continued preparations for alignment with the EU *acquis* on investment funds (UCITS Directive), alternative investment funds (AIFMD Directive) and pension funds (IORP Directive). The Authority produced initial drafts of these three laws as well as a draft law on digital property (assets).

## **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. **Limited progress** was made, notably on last year's recommendations regarding alignment to the EU *acquis* in the areas of consumer and health protection. Recommendations from last year remain therefore largely valid.

In the coming year, Montenegro should, in particular:

- complete the alignment of national legislation with the EU consumer protection *acquis*;
- complete the alignment of national legislation with the EU health protection *acquis*, notably on patients' rights in cross-border health care and substances of human origin;

→ ensure the necessary implementation capacity to implement the EU *acquis*, and implement it in all relevant areas - notably in the area of tobacco control.

### Consumer protection

Regarding the **legislative framework for consumer protection**, Montenegro adopted implementing legislation designed to ensure alignment to the EU *acquis* on consumer rights for contract termination and on the out-of-court resolution of consumer disputes. However, further alignment is necessary on consumer rights, consumer credit, alternative dispute resolution, and with the latest EU *acquis* on consumer protection rules.

Montenegro reported that 35,645 inspections were performed in the field of consumer protection, which identified 5,029 irregularities, leading to administrative and punitive measures.

On **product safety**, Montenegro reported that 2,211 inspections were made, including 1,733 inspections in the context of proactive surveillance and 361 inspections in reactive surveillance, identifying 789 dangerous products (42,734 items). Administrative measures were imposed accordingly, including withdrawal from the market and permanent or temporary circulation ban, destruction and return to the producer/distributor.

### Public health

On **public health**, national legislation on healthcare is partly aligned with the EU *acquis*. The health budget (7.1% of GDP) increased slightly compared to 2019. Montenegro's Integrated Health Information System (IHIS) covers state-owned medical institutions, pharmacies and privately owned dentist offices. It is used at the primary and secondary care level but only partially at tertiary level. The over-prescription of medicines is no longer a matter of particular concern thanks to various actions by the Ministry of Health including trainings on rational use of antibiotics and strengthened control over pharmacies. Anti-microbial resistance remained insufficiently addressed. There was no external survey assessing corruption affecting the health sector.

Although Montenegro's legislation is designed to align with the EU *acquis* on **tobacco control**, this is not sufficiently enforced in public places, especially in bars, restaurants, and night clubs. The sale of tobacco products to persons under the age of 18 is legally prohibited, but weak control over the sale of tobacco products to minors is a matter of concern.

On **blood, tissues, cells and organs**, the national Blood Transfusion Institute provided sufficient quantities of safe blood for the needs of the citizens and organised voluntary blood donation actions. Council of Europe studies found that the laboratory of the Blood Transfusion Institute performed with the established standards.

Implementation of the national legislation requirements in the field of **substances of human origin (SOHO)**, will be facilitated through the development of an information system focusing on organ donation and transplantation. A required software will be developed with EU funds.

National legislation on healthcare is partly aligned with the EU *acquis*, but patients' rights in cross-border healthcare need to be addressed. In the field of **serious cross-border health threats**, including **communicable diseases**, the capacities of the Institute of Public Health to effectively respond to future outbreaks of infectious diseases are being strengthened by building and equipping the Centre for Control and Prevention of Infectious Diseases with the Emergency Operations Centre and by improving the IT system in the fields of data collection and crisis management. Montenegro has also improved microbiology diagnostics capacity and quality (including COVID-19 diagnostics) with the establishment of the biosafety level 3

laboratory with EU support. Montenegro successfully maintained a low prevalence of HIV thanks to the existing prevention services for key populations at risk, also provided by civil society organisations active in this area.

During the ongoing COVID-19 pandemic, the Institute for Public Health ensured testing, assessment of the pandemic situation, proposing containment measures to the relevant national authorities and reporting on communicable diseases. The epidemiological situation evolved rapidly with increasing number of infected persons placed under quarantine and active surveillance or hospitalised due to serious health conditions, and a high number of deaths occurred during the peak of the pandemic. In response to this situation, the National co-ordinating body introduced numerous measures to prevent further spread of the disease. They included mandatory self-isolation for people returning from abroad, closure of schools, restricted movement including curfew, mandatory social distance, travel abroad ban and the closure of most of the border crossings.

In December 2020, the National co-ordinating body was dissolved and the Council for fighting COVID-19 was established. In January 2021, the national strategy for the immunisation against COVID-19 was adopted. Montenegro started the COVID-19 immunisation for priority groups in February and mass immunisation in May. Montenegro received 48,000 doses of Astra Zeneca vaccine through the global COVAX vaccine sharing mechanism as a self-financing partner, 10,000 additional doses through an agreement with Croatia, as well as donations of 10,000 doses from Serbia and Slovakia each (in total 78,000 doses of Astra Zeneca). Under the EU's scheme to share vaccines with the Western Balkans (via Austria), Montenegro received over 42,000 Pfizer/BioNTech doses between May-August 2021. In addition, Montenegro has signed a bilateral agreement with Pfizer for over 150,000 doses of vaccines. Furthermore, Montenegro has received 14,000 doses of Sputnik V vaccine and over 630,000 doses of Sinopharm vaccine, including a donation from Hungary of 200,000 doses. Montenegro continued to participate in the EU Health Security Committee as an observer, with also access to the EU Early Warning and Response System. Montenegro continued to make use of the EU Joint Procurement Agreement on medical counter-measures to which it is a signatory and joined the European COVID-19 Surveillance Network, reporting COVID-19 data to the European Surveillance System (TESSy) managed by the European Centre for Disease Prevention and Control (ECDC).

Health promotion activities related to non-communicable diseases need to be strengthened. Montenegro has a strategy for the **improvement of mental health** (2019-2023) along with a related 2019-2020 action plan. However, the report on the implementation of the action plan has not yet been prepared. On **preventive measures**, workshops for primary and secondary students on healthy life styles continued. Progress was made in terms of early detection of and intervention in mental health disorders by strengthening the capacity of teaching staff in primary and secondary schools.

On **drug abuse prevention and harm reduction**, no report was made available on the implementation of the action plan for 2019-2020 of the 2013-2020 strategy for drug-abuse prevention nor on the implementation of the guidelines on providing support to drug addicts. According to civil society, drug-related deaths are not registered. The harm reduction centres managed by civil society organisations continued with the provision of services to clients during the COVID-19 pandemic. Some opioid substitution treatment (OST) centres provided therapies to clients on a weekly basis, or organised a delivery of OST therapy to people in quarantine or their homes. Treatment options for drug users have been improved, but they should be further extended to cover all categories of drug users. A free telephone service has been organised by the Podgorica health centre.

On **health inequalities**, access to healthcare services remains available for almost all vulnerable groups. Those who do not have access to all health services are displaced or internally displaced persons, including Roma and Egyptians, without regulated legal status. Montenegro should continue to improve access to health and services for disadvantaged populations, including Roma and other minorities, older people, people with pre-existing mental health problems, people with disabilities, and populations in rural or remote areas. Immunization and adequate treatments, including services delivered at hospitals, were ensured to all those affected by COVID-19 during the pandemic.

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

This cluster covers chapters 10-information society 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 – which are provisionally closed. Closing benchmarks remain to be fulfilled in each of the 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. through implementation of the WHO Framework Convention on Tobacco Control; adoption of a new law on pensions; further implementation of the revised industrial policy, as well as implementation of the strategies on smart specialisation, vocational education and training, and trade facilitation. On economic and monetary policy, implementation of the action plan for alignment with the EU *acquis* is ongoing.

In the coming period, Montenegro is invited to focus on the following areas: adopt legislation to ensure independence of the media sector from political influence; make progress towards alignment in the areas of VAT, excise duties and direct taxation; improve cooperation and coordination amongst relevant actors covering economic and monetary issues; implement the labour law and the anti-discrimination law, in addition to continue efforts on improving safety at work; continue implementing the revised industrial policy and boost inter-ministerial cooperation; continue to develop – with increased investment – the research and innovation ecosystem with the green and digital transition in mind; further improve the quality and accessibility of education and training, again with a focus on digitalisation; and establish an EU-compatible computerised transit system.

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

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

Montenegro remains **moderately prepared** in the area of information society and media. There was **limited progress** during the reporting period, in particular on electronic communications and information technologies. Legislation to ensure the independence of the media sector from undue political influence, stepping up the media regulator's enforcement capacity and ensuring sufficient administrative capacity to enforce the *acquis* remain to be adopted. The recommendations of the previous reports remain therefore largely valid.

In the coming year, Montenegro should in particular:

→ complete legislative alignment in particular on audiovisual media and ensure 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 licences ensuring proportionality and effectiveness;
- establish a track record to demonstrate administrative capacity to enforce the EU *acquis* for electronic communications, information society services and in particular audio-visual media services, including as regards regulatory independence.

The Ministry of Economic Development is in charge of **electronic communications and information technologies**.

The adoption of the national plan for the development of next-generation access networks, as well as drafting respective legislation have been postponed due to the COVID-19 pandemic. Mapping of the electronic communication infrastructure was concluded, as a prerequisite to installing the 5G network. Following the signature of the Regional Roaming Agreement in 2019, Montenegro signed in November 2020 the Memorandum of understanding on a roadmap for the 5G digital transformation of the six economies of the Western Balkans. Reducing the prices of roaming services across the region continued and users are charged as in their home network since July.

The 112 European emergency number is functioning. Its software and hardware were modernised in preparation for advanced services such as e-call, expected in 2021.

**Information society** is under the responsibility of the Ministry of Public Administration, Digital Society and Media. Amendments to the Law on Information Security were adopted in April 2021. Seeing some consolidation, the e-government portal currently supports 523 electronic services (2019: 598 electronic services) by 50 institutions. In June 2020, the Parliament legally transferred the Cyber Incident Response Unit to the National Security Authority.

On **audio-visual policy**, the regulatory agency for electronic media (AEM), continued to exercise its mandate in a professional manner. An overlap in jurisdiction remained as concerns to oversee the media during elections. AEM should be the only body responsible for supervising broadcasters during elections. The Agency still lacks the authority and measures to effectively monitor and penalise broadcasters. AEM improved its operational efficiency by procuring a monitoring software. Legal provisions and AEM's operational capacity remain to be strengthened. The AEM, together with universities and UN agencies implemented a series of webinars on media literacy aimed at high school teachers, students, parents and journalists.

Adoption of the Law on audio-visual media services (LAVMS) is planned for 2021, along with amendments to the Law on media and the Law on the national public broadcaster, adopted in July 2020. LAVMS needs to comply with the 2018 revision of the EU Directive on the audio-visual media services, recommendations and legal opinions of Council of Europe and OSCE experts. 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.

The government provided financial support to the media sector to reduce the financial losses caused by the COVID-19 pandemic. It launched a public consultation process on a comprehensive media strategy for the period 2021-2025 in April 2021. The AEM published an ownership overview on the providers of audiovisual media services in May 2021. Digitalisation of the register for all media in Montenegro continued.

## 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. Overall, **some progress** was made in this area. Substantial progress was made on implementing the WHO Framework Convention on Tobacco Control on marking tobacco products and alcoholic beverages with excise control stamp. Progress was limited in terms of addressing the issues highlighted by the TADAT (tax administration diagnostic assessment tool) analysis. Minor changes to legislation related to the value-added tax (VAT) and other tax exemptions were adopted. Therefore, the recommendations related to TADAT analysis and VAT exemptions from 2020 remain valid.

In the coming year, Montenegro should in particular:

- continue to implement the action plan addressing the issues highlighted by the TADAT analysis;
- make further progress on removing 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**, amendments to the Law on VAT were adopted in July 2020 and in May 2021. The amendments introduce a reduced VAT rate of 7 % for some activities, notably in the hospitality sector. Following the reform on electronic fiscalisation, taxable persons can now issue electronic invoices in accordance with the law governing the electronic document. Another new provision allows taxpayers to submit monthly VAT return solely electronically, which is in line with the EU *acquis*.

Following the amendments to the Law on excise duties in 2020 introducing the information system for electronic exchange of excise data, the Ministry of Finance adopted implementing legislation in December 2020 concerning the related information system. As of January 2021, a new IT system is operational, enabling the collection, recording, storage, processing and submission of data on excise duties in electronic form. As of February 2021, the Customs Administration started implementing a new system for electronic management of excise stamps. In February 2021, the Government amended the decree on the marking of tobacco products and alcoholic beverages with excise stamps.

As regards **direct taxation**, the Law on corporate income tax remains to be aligned with the EU *acquis* as concerns a common system of taxation applicable to parent companies and subsidiaries from the EU Member States as well as a common system of taxation applicable to interest and royalties paid by associated companies of EU Member States.

On **administrative cooperation and mutual assistance**, in May 2020, the government adopted the decree amending the conditions for postponing the collection of due tax and non-tax receivables. Amendments to the Law on tax administration to align with the EU *acquis* on the mandatory automatic exchange of tax information remain pending. Montenegro has completed double taxation agreement with 22 EU Member States.

On **operational capacity and computerisation**, the Administration for Games of Chance, the Tax Administration and the Customs Administration were merged into a single body in April 2021. The electronic fiscal invoice system (e-fiscalisation) was launched in January 2021. In December 2020, amendments to the Law on fiscalisation in the trade of products and services

were adopted, aiming to introduce the new system of recording trade in products and services via electronic devices. In December 2020, the government adopted a decree outlining the detailed procedure of the fiscal memory of the tax cash register, which entered into force on 1 January 2021. The Revenue and Customs Administration still needs to adopt a human resources strategy as well as a personnel and training plans. In order to prepare the administration for the exchange of information for tax purposes, a readiness assessment is underway. Montenegro does not yet have sufficient technical capacity nor appropriate infrastructure to apply the EU IT systems, such as Excise Movement Control System (ECMS) and the VAT Information Exchange System (VIES).

## Chapter 17: Economic and monetary policy

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

Montenegro remains **moderately prepared** in the area of economic and monetary policy. **Limited progress** was achieved on meeting last year's recommendations, primarily on implementation of the action plan for alignment with the EU *acquis*. Limited administrative capacities and insufficient resources of the Montenegrin Statistical Office (Monstat) continue to hamper progress in this chapter. The government adopted and submitted its 2021-2023 **Economic Reform Programme (ERP)** with a considerable delay, which did not allow for a detailed Commission assessment of the macroeconomic and fiscal programmes. The fiscal framework is subject to sizeable risks and uncertainties. The quality and timely implementation of the ERP reform measures is not adequately ensured.

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

- continue to implement the revised action plan for alignment with the EU *acquis* under this chapter;
- ensure adequate capacities, 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.

After legal consultations with the European Commission in the course of 2020, the Central Bank of Montenegro started working on amendments to the Law on Central Bank, which are to be adopted in the fourth quarter of 2021. The EU rules prohibiting privileged access by the public sector to financial institutions need yet to be introduced in the law on insurance. Following the decision of the European Central Bank on a backstop facility for central banks outside the euro area, in June 2020 Montenegro got access to the Eurosystem repo facility for central banks (EUREP), designed to address pandemic-related euro liquidity needs. The EUREP line allows Montenegro to apply, in case of need, for systemic liquidity support funds of up to EUR 250 million until March 2022.

On **economic policy**, efforts need to be stepped up to ensure full alignment with the Council Directive on requirements for budgetary frameworks of the Member States. The strategy for implementation of methodology of the European System of National and Regional Accounts standards (ESA 2010) in the public finance statistics of Montenegro, which suffered



implementation delays in the last years, should be revised in the course of 2021. Considerable delay with the introduction of accrual accounting and production of government finance statistics based on ESA 2010 standards needs to be addressed.

Montenegro's fiscal notifications remain incomplete, in particular excessive deficit procedures data. Limited administrative capacity and insufficient resources of the Statistical office of Montenegro (Monstat) hamper progress in this chapter. Moreover, systematic cooperation and coordination of tasks between the Ministry of Finance, the Central Bank of Montenegro and Monstat on the production of necessary statistics need to be adequately addressed.

The amendments to the Law on budget and fiscal responsibility, which provides the formal framework for Montenegro's fiscal policy, open the way to the establishment of an independent fiscal council in the near future. This new body should strengthen the oversight of the fiscal policy in the country. Some new elements of programme budgeting and medium-term planning were included in the 2021 budget. However, the development of performance indicators is still ongoing.

The government adopted and submitted its 2021-2023 **Economic Reform Programme (ERP)** with a considerable delay, on 1 April 2021. Montenegro made an effort to provide informally parts of a draft ERP in February and March. Preliminary macroeconomic and fiscal figures were amended in the final version, and these last-minute changes and the delay together with the absence of statistical tables in the annex did not allow for a full-fledged and detailed Commission assessment, in particular of the macroeconomic and fiscal outlook. The fiscal framework is subject to sizeable risks and uncertainties. The new government is engaged in developing a new medium-term fiscal strategy to consolidate public finances by strengthening budget revenues and phasing out crisis-related spending. Due attention should be given to the quality of design and timeline of implementation of economic policy measures.

## **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. **Limited progress** was made during the reporting period, including the deployment of the labour law and adoption of the new law on pensions.

The recommendations from last year's report remain largely valid. In the coming year, Montenegro should in particular:

- continue the implementation of the labour law, and develop quality employment measures aimed at young people and women, people with disabilities, minorities and vulnerable persons impacted by the pandemic. In parallel, take steps to establish and implement the Youth Guarantee by developing a Youth Guarantee Implementation Plan in line with the EU model and guidance;
- introduce measures to address the grey economy, including a review on the impact of the labour tax wedge, and put in place changes which will improve issues related to health and safety at work;
- based on the Roadmap of Social Protection Reform, continue the evidenced based reform of the social protection system, keeping in mind links to employment activation and social

inclusion with an anti-poverty focus. In parallel, continue to make concrete steps towards deinstitutionalisation.

The full roll out of the **labour law** and the alignment of anti-discrimination law with the EU *acquis* was overtaken by the need of institutional arrangements responding to the COVID-19 crisis. Given the importance of the labour law, adequate monitoring of implementation remains crucial. The amendments to the Law on pensions and Disability Insurance, capping the pensionable age for men at 66 years and aiming to reach a pensionable age of 64 years for women by 2018, raising the minimum pension from EUR 128.82 to EUR 145.77 and increasing the average pension rates, and the Law on the labour fund, were adopted in July 2020. Furthermore, amendments to the Labour Law raising the minimum wage from EUR 222 to EUR 250 as of 1 October 2021, as well as to the Law on Social and Child Protection granting universal benefits to all households with children under the age of 6 years, were adopted in May 2021. Following the re-organisation of state bodies after the elections, the competences of the Ministry of Labour and Social Welfare were transferred to the Ministry of Finance and Social Welfare and the Ministry of Economic Development. The relevant chapter working group, which should include social and civil society partners, is yet to be fully re-established.

Concerning **health and safety at work**, the rulebook on occupational safety and health measures in the working environment and working surrounding was adopted in October 2020, ensuring partial alignment with the relevant EU *acquis*. The occupational safety and health fund foreseen under the sector strategies (2010-2014 and 2016-2020) remains to be established. Labour inspection continued to suffer from structural and functional deficiencies compounded by the pandemic. Further efforts are needed to develop an appropriate legislative framework, provide enough resources, produce a modernised planning of labour inspection activities and improve coordination among the different inspection bodies. From 15 June 2020 to 15 June 2021, there were 21 accidents at work, of which three were fatal, 17 were serious, while one was reported as a collective accident.

On **social dialogue**, the implementation of the related provisions of the Labour Law are pending. The foreseen general collective bargaining agreement (at national level) is still not finalised. The tripartite Social Council resumed work in March 2021, however it remains important that it is effectively involved in policy making. Social partners have been generally consulted on the economic support packages designed to mitigate the impact of the restrictive measures resulting from the COVID-19 pandemic.

On **employment policy**, appropriate monitoring of the implementation of the national strategy for employment and human resources development remains difficult due to the lack of systematically collected data. The effectiveness and coverage of active labour market policies, which should be in place to assist job seekers finding employment, remains insufficient. The ratio of workers of the Employment Agency between branch offices and at central level should be reviewed. Montenegro has seen a decline in the employment rates (20-64) from 66.2% in 2019 to 61.5 % in 2020. The unemployment rate for persons (15-64) increased to 18.3% during 2020. Regional disparities persist with unemployment higher in the north at 42.2% and 4.6% at the coast at the end of 2020 according to national statistics. Long-term unemployment remains the major structural challenge, with 76.3% of unemployed being out of work for more than two years. The most vulnerable groups on the labour market remain women, youth, Roma and low skilled workers. The share of young people (15-29) not in education, employment or training (NEET) has increased between 2019 and 2020 from 21.3% to 26.6%. Montenegro has endorsed the Western Balkans Declaration on ensuring sustainable labour market integration of young people (8 July 2021) and has also committed to taking

concrete steps to implement the Youth Guarantee scheme while first moves have been taken on the expected deliverable being the scheme's implementation plan. Sustained efforts remain crucial to tackle the informal economy, along with reinforcement of labour inspections. Reviewing the high labour tax wedge and planning a feasibility analysis and consultation on the tax and social security financing system have not been undertaken. No linkage yet exists between the database of the Employment Agency and the Tax Administration, which would be a step forward to better address issues related to the informal economy. In addition, enhanced coordination between the Employment Agency and social welfare centres is still required. Building stronger links between employment and social services remains crucial in order to remove potential disincentives to employment.

As regards the **European Social Fund (ESF)**, implementation of the second operational programme for human resources development (2015-2017) is ongoing. In addition, in order to respond to the COVID-19 pandemic during 2020 the EU, working with Montenegro, also reallocated EUR 50.3 Million of IPA funds in order to support the education, health, social and economic sectors. (*See Chapter 22 - Regional policy and coordination of structural instruments*)

Despite the strain created by the crisis response to COVID-19 the reform process on **social protection and inclusion**, the review of the social protection system was finalised and a Roadmap of Reforms was adopted in July 2021. Overall, the social protection sector faced serious human resource and capacity limitations. While financial assistance was provided, focus on strengthening family and community-based services was limited. Centres for social work, which should be more proactive in combatting the crisis, continue to be understaffed. The implementation of the integrated social welfare information system (SWIS) continued, operating in all centres for social work and social and child protection institutions, but there is limited data on results due to shortcomings in monitoring. Some measures of the 2020 Action Plan on the Implementation of the Strategy for Development of the Social Welfare System for the Elderly 2018-2022 were implemented, however no adequate monitoring mechanisms and reports are yet available and so conditions for evidence-based policy-making are not in place. Moreover, social welfare centres require strengthened capacities in order to help bring about the transition from institutional service provision to community-based care. The Institute for Social and Child Protection, which currently employs 20 staff members, is in need of resources while social services provided at local level are still deemed inadequate, with municipalities being short of funds. According to the survey of income and living conditions (SILC) data for 2019, the national at-risk-of-poverty rate was 24.5 % whereas for children it stood at 33.7 % (a 1.3 percent increase) and has been on the rise since 2016. The impact of COVID-19 will only be seen in future editions of SILC. On **de-institutionalisation** of children in care, insufficient progress has been made to continue the transition to community and family-based services. Although there was a slight decrease in the number of children in institutional care in 2020, there has been a 30% increase recorded in 2021 in the number of children without parental care since December 2020. While the country introduced the 'Family Associate' system, it has not yet introduced professional foster care. The Council for the care of persons with disabilities was re-established in June 2020 but the members still need to be appointed.

On **non-discrimination in employment and social policy**, the draft Law on Professional Rehabilitation and Employment of Persons with Disabilities, is still pending adoption with the draft law on Unified Disability Determination system is prepared to be adopted by the end of the year. Services provided by civil society organisations continue to face administrative constraints, including the lack of proper licences. In late 2020, the Ministry of Justice, Human and Minority Rights initiated a new Roma inclusion strategy for 2021-2025, in line with the

new EU Roma strategic framework for equality, inclusion and participation for the period of 2020-2030. The official response to the pandemic lacked a focus on Roma and Egyptian community. Efforts are still required in the roll out of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) strategy (2019-2023) for which a national team for monitoring implementation was established in August 2019. Moreover, civil society organisations remain insufficiently involved in decision-making.

**On equality between women and men in employment and social policy**, the COVID-19 outbreak illustrated the need to foster flexible working arrangement policies in order to increase labour market participation of women and youth, enhance overall productivity and decrease costs incurred on paid leave due to inability to attend the office/workplace. Issues such the gender gap in employment and pay, sexual harassment in the workplace, affordable childcare, unpaid work and tax benefit systems, remain unaddressed. In 2020 the employment rate for the population aged 20-64 was 48.8% for women and 61.7% for men, a gender gap of 12.9 percentage points. Efforts are needed to put in place 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 on implementing the industrial policy, as per 2020 recommendation. Substantial efforts were made to develop emergency support to enterprises during the economic crisis caused by the COVID-19 pandemic. Both inter and intra-ministerial cooperation on technical and political level should be reinforced to ensure consistency of different national strategies and programmes, including industrial policy, smart specialisation and the Economic Reform Programme.

In the coming year, Montenegro should:

- focus on the continued implementation of revised industrial policy, in cooperation with relevant stakeholders and in the view of the COVID-19 special measures;
- accelerate legal alignment with the EU *acquis*, notably by adopting amendments to the law on deadlines for settlement of monetary obligations;
- enhance efforts to ensure continuous coordination of the industrial policy with other national key strategies.

**On enterprise and industrial policy principles**, no alignment initiatives were finalised in 2020. The ongoing alignment with the EU *acquis* on combating late payments, through amendments to the law on deadlines for settlement of monetary obligations, is planned for late 2021.

**On enterprise and industrial policy instruments**, Montenegro continued to implement different programmes for the development of entrepreneurship and private sector under the overarching Programme for Improving the Competitiveness of the Economy. The Programme offers financial support to micro, small and medium enterprises as well as large companies. While the financial allocations in 2020 increased significantly (mainly because of the COVID-19 support allocations) to EUR 5.08 million overall, the actual support granted to 332 companies amounted to EUR 1.82 million. Nonetheless, the number of supported companies increased by 8% and the total amount of support by 9% in comparison to 2019.

The Investment and Development Fund of Montenegro (IDF) provided financing worth EUR 284.7 million to the Montenegrin enterprises. The IDF, with its financial support programmes, was included in the government's efforts to mitigate the consequences of the COVID-19 pandemic. Several programmes to improve liquidity among companies and different other instruments (such as loan extensions and grace periods on interests) were used. In addition, IDF approved 60 loans in amount of EUR 5.8 million under the EU programme for the Competitiveness of Enterprises and SMEs (COSME) Guarantee Fund.

On **sectoral policies**, the implementation of the Industrial Policy of Montenegro up to June 2020 progressed largely in line with its action plan and resulted in investments of EUR 351.84 million or 85.74 % of the planned allocations. In July 2020, however, the government adopted a new action plan, focusing on the COVID-19 response. The government also adopted a new strategy for lifelong entrepreneurial learning 2020-2024 in May 2020, accompanied by an action plan for 2020-2021. The strategy for the development of women's entrepreneurship 2021-2024 is not yet adopted. The innovation activities would benefit from the improvement of the legislation on patents (Chapter 7). Both inter and intra-ministerial cooperation on technical and political level should be reinforced to ensure the consistency and coherence in the implementation of different national strategies and programmes, including the industrial policy, the smart specialisation and the Economic Reform Programme. The number of different sectoral strategies, actions plans and reports could be decreased, and activities consolidated to facilitate the efficient management of the enterprise and industrial policy.

The process of company registration was greatly simplified, with the introduction of a single registration application, replacing 16 different forms used previously. The centralised registry of all fiscal and para-fiscal charges on central and local level was developed, increasing transparency for businesses. The secondary legislation on electronic payment of administrative fees was adopted, enabling the launch of the national system for collection of administrative fees. To ensure further progress in the company registration process, an action plan for improving the position of Montenegro on the Doing Business List was adopted.

The government's programme to support the economy and employees during the COVID pandemic responded to 63 thousand requests for subsidies totalling EUR 63.5 million in the period of April-December 2020. Among other measures, payments were made to subsidise salaries of employees from 15 800 businesses. In the period of January-June 2021, prolongation of the measures saw salary subsidies paid to 3 900 companies and the total amount of subsidies to businesses amounted to EUR 27.5 million.

## 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 **good level of preparation** in this sector. **Some progress** was made on the two 2020 recommendations through continued implementation of the Smart Specialisation Strategy and increased participation in Horizon 2020.

In the coming year, Montenegro should in particular.

→ further advance implementation of the Smart Specialisation Strategy; adopt relevant implementing legislation; establish the Innovation Fund and make it operational;

→ strengthen academia-business cooperation and the knowledge transfer between academia and the private sector;

→ intensify investment in research and innovation and continue to increase participation in the new EU programme Horizon Europe.

On **research and innovation (R&I)** policy, implementation of strategies continued along with promotion and support for innovative projects through a number of programmes, including pre-acceleration for start-ups. Implementing legislation is being developed based on the laws governing innovation activities and incentives for R&I development, which entered into force in 2020. Implementation of the action plan for the Programme on open science principles commenced. The University of Montenegro adopted the *open access to research infrastructure* policy in October 2020 following participation in the related Western Balkans support programme under the Regional Cooperation Council. Next year funding was recommended for the two centres of excellence (food and biomedical science - operational since January 2020), following positive reports by international evaluators.

Latest available official statistics indicate that research and development (R&D) funding stood at 0.50 % of GDP in 2018 with an investment share of 0.19 % provided by the private sector. An increased budget in this area would support the country's economic recovery, also given the relevance of innovation to the Economic and Investment Plan for the Western Balkans.

Montenegro progressed on implementing its **Smart Specialisation Strategy (S3)**, in line with national legislation and the European Commission's technical recommendations from the 2019 S3 assessment, through the development of operational programmes linked to the four S3 strategic priority areas (agriculture, energy, health, tourism), a government decision in June 2021 to establish a national innovation fund as the S3 implementing body, and steps to define a multi-annual financial plan. Further work is needed to fulfil the missing technical criteria under these recommendations. The development of an information and communications technology (ICT) cluster to further facilitate S3 implementation is underway. The Council for Innovation and Smart Specialisation strategy is the government management body. Montenegro improved its status on the European Innovation Scoreboard (EIS) from being a modest innovator in 2020 to being an emerging innovator in 2021. The EIS monitors the effects of innovation policies, including S3 implementation.

The three laboratories (biotech, industrial design and data centre) at the innovation and entrepreneurship centre 'Tehnopolis' are now fully equipped and became operational in late 2020. While construction works on the science and technology park (STP) in Podgorica continue, the STP is already implementing several national and international training and capacity building programmes for the innovation community. Both the STP and Tehnopolis are directly involved in implementing certain measures and instruments defined by the S3. Implementation of the 13 projects continues to benefit from the EU-funded collaborative grant scheme for innovative project ideas.

Montenegro's success rate in the EU **Horizon 2020** programme is 13,2%, well above the average of 12,1%. Negotiations are at an advanced stage for participation in the new EU programme Horizon Europe 2021-2027.

In 2020, Horizon 2020 cooperation focused on promoting Marie Skłodowska-Curie actions and participation in EU Horizon 2020 COVID-19 projects, as well as calls for proposals under the Green Deal for the Western Balkans. Cooperation was also expanded with the European Institute of Innovation and Technology, where the country is already participating in projects and networks on raw materials, and Montenegrin institutions have expressed interest to participate in research and institutional support initiatives.

Montenegrin research teams enjoyed successful cooperation in numerous projects within the European Cooperation in Science and Technology (COST) programme. Montenegro also continued active engagement with international bodies such as European Council for Nuclear Research (CERN), International Atomic Nuclear Agency (IAEA), and Exceptional, Unconventional Research Enabling Knowledge Acceleration (EUREKA) and remains committed to participate in the European Social Survey European Research Infrastructure Consortium (ESS-ERIC). The Montenegrin diaspora is also included in innovation research programmes, including as evaluators of project applications.

## 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 on the 2020 recommendations on continuing education reform, in particular on Vocational Education and Training. Other recommendations require more efforts. The COVID-19 pandemic severely impacted the education sector whose response focused on maintaining continuity through distance learning.

In the coming year, Montenegro should in particular:

- intensify reform efforts to improve inclusive education and access to quality education at all education levels;
- adopt and start to implement the new strategy on early and preschool education 2021-2025, to help improve preschool enrolment and inclusivity for all children;
- establish an adequate monitoring and evaluation mechanism of practical learning, at both higher and VET level education.

On **education and training**, implementation of various education strategies continued during 2020. Progress was partially affected in 2021 due to the establishment of the new Ministry of Education, Science, Culture and Sports, and related staff changes. Spending on education was around 4% of GDP in 2020. The preschool enrolment rate stood at 52% in 2019/2020, well below the EU 95% target. The COVID-19 pandemic led to a hybrid system of regular and online schooling. A range of distance-learning opportunities was provided at all education levels, individualised teaching materials prepared for students with special educational needs, and a supply of computer tablets donated to support online classes. Efforts, however, should be accelerated to address the learning gaps caused by digital exclusion as experienced by many children from vulnerable groups who lacked technological devices or internet access. A comprehensive analysis of the education system is ongoing, the outcome of which can serve as a solid basis for broad discussion - with all relevant stakeholders - on developing a qualitative, budgeted, multi-annual education strategy for sustainable reforms.

Roma and Egyptian pupils were particularly impacted by the COVID-19 pandemic, although some improvements can be reported, including through EU projects and donor support: additional free textbooks in primary schools, more mentors and associates engaged at primary and secondary schools (to provide learning support, ensure pupil attendance and prevent early dropouts, and as a link between parents and schools), and free transport extended for about 600 primary school students in Nikšić, Podgorica, Cetinje and Berane municipalities. The scholarship scheme for Roma and Egyptian students at secondary and university-level

continued, but requires more thorough implementation to ensure that monthly payments are made on time.

To meet the needs of marginalised groups, 54 modules were developed for acquiring professional qualifications from 16 educational programmes. Montenegro should ensure close synergy with the Poznan Declaration on Roma integration when implementing the strategy for inclusive education 2019-2025.

Adoption of the new strategy on early and preschool education 2021-2025 is pending; the main goals of the strategy are to improve the quality of preschool education, increase enrolment coverage, and improve the chances for early development of children from vulnerable groups. The strategy on lifelong entrepreneurial learning (2020-2024) is being implemented, covering entrepreneurial learning through formal education at all education levels, as well as through non-formal education. Montenegro is developing key competences, specifically those linked to STEM subjects (science, technology, engineering and mathematics) and their integration in the education system. The Self-reflection on Effective Learning by Fostering the use of Innovative Educational technologies (SELFIE) tool, which allows for annual self-evaluation on the use of digital technologies in teaching, is being implemented in all primary and secondary schools.

Reforms continued on Vocational Education and Training (VET) in line with the revised VET strategy (2020-2024) and related action plans. These covered quality assurance, VET qualification development and related practical experience, and key competence development, involving cooperation with the Chamber of Economy and the business community. Montenegro remains committed to implement and monitor the 2015 Riga Conclusions on VET, and is a regular partner in the policy dialogue on VET reforms at EU and regional level. In November 2020, Montenegro signed the Osnabrück Declaration 2021-2025, including commitments to the European Education and Training Area and the international dimension of VET. The second evaluation of dual education was finalised in December 2020, assessing the capacities and capabilities of all stakeholders involved in planning and implementing dual VET. The development of a structured monitoring and evaluation system for VET is ongoing.

The 3+2+3 study model is now implemented also at private higher education institutions, mirroring the University of Montenegro (UoM) process. The Ministry of Education, Science, Culture and Sports plans to propose a new draft revised strategy for higher education to cover the period 2021-2025. It has also formed an inter-ministerial working group to draft a new Law on Higher Education. Developing a structured monitoring and evaluation of practical education in higher education programmes is an area that requires specific attention. Regarding the 2019 Law on academic integrity, the new government appointed a new Ethics Committee (responsible for the protection and promotion of academic integrity and prevention of plagiarism), replacing previously appointed members. Full implementation of this law and achieving tangible results remains important, particularly as education remains a vulnerable area for corruption.

In 2020, Montenegro's participation in the EU's flagship programme Erasmus+ increased to 1 549 incoming and outgoing participants, up from 1 379 in 2019. Eight capacity building projects were awarded in the area of higher education. Two Jean Monnet projects were supported - including the first ever Jean Monnet Centre of Excellence project, at the UoM - while two Erasmus Mundus Joint Master Degrees had associates from Montenegro, and four Erasmus Mundus Joint Master Degree scholarships were awarded.

Due to COVID-19, little progress was made to further implement Montenegro's Programme for International Student Assessment (PISA) action plan and recommendations for improving



education quality. Montenegro is taking part in the Progress in International Reading Literacy Study (PIRLS) 2021 assessment as well as PISA 2022.

On **culture**, funding continued during 2020 for creative and cultural projects (including to civil society groups) and provided support to protect the socio-economic interests of unemployed artists and various operators adversely affected by the COVID-19 pandemic. Support for cultural and creative projects was, however, not carried out as planned during the first half of 2021, due to government restructuring and legislative delays. Work on the next culture programme covering 2021-2025 is ongoing. Most municipalities have their own centre or secretariat for culture. Montenegro applied for association with the next EU Creative Europe programme and continued participation in cross-border cooperation on cultural matters funded through IPA. Continued attention should be given to the full implementation of protection measures to maintain the preservation of Kotor's UNESCO World Heritage status,

Implementation of the **Youth** Strategy 2017-2021 continued while technical amendments were made to the Law on youth to define competencies of the new Ministry of education, science, culture and sports. The Directorate for youth and sport – which is now the administrative body of this new Ministry – concluded stakeholder consultations aimed at developing new strategic youth priorities. In this regard, a more inclusive approach targeting youth with disabilities, minority groups and those from rural areas is essential. All municipalities have approved youth action plans and, in 2020, some additional youth antennae structures were opened. Contracts, however, for local youth administrators were not extended (from mid-2021) and the new recruitment process has yet to be launched. The ‘youth network’ – as the National Youth Council, established in 2020 as a representative association of NGOs implementing youth policy in Montenegro - is currently developing its first 4-year strategic plan under the Western Balkans Youth Lab project and has taken relevant steps to join the European Youth Forum.

On **sport**, the Ministry of Education, Science, culture and sports signed an agreement with the national statistics office (MONSTAT) aimed at improving the registration procedures of sport organisations.

## **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 **some progress** during the reporting period, advancing preparations for accession to the Convention on common transit procedure, and implementing actions foreseen in the trade facilitation strategy 2018-2022, thus partially fulfilling last year's recommendations. The reorganisation of the customs administration in April 2021 may affect ongoing customs programmes and capacity building in this field. Significant challenges remain in reducing illicit tobacco trade through the port of Bar.

In the coming year, Montenegro should in particular:

- finalise preparations for accession to the Convention on a common transit procedure by establishing an EU-compatible computerised transit system;
- further implement trade facilitation measures in order to reduce administrative inefficiencies and the time needed for customs clearance, in line with the Trade Facilitation Strategy 2018-2022 and the Economic Reform Programme 2021-2023;

→ carefully monitor the impact of the reorganisation in the customs administration in terms of capacity building and enhance efforts to ensure adequate staffing levels for the IT department.

On **customs legislation**, the degree of alignment with the EU *acquis* is high. The adoption of the new Customs Code, fully aligned with the Union Customs Code, and its implementing legislation, are pending. Preparations for the ratification of the Law on accession to common transit convention and the Convention on facilitation of trade in goods progressed on schedule.

In March 2021, the government adopted implementing legislation on the customs tariff for 2021, harmonising the level of customs rates with the obligations undertaken within the World Trade Organization (WTO) and other international agreements concluded by Montenegro. This regulation also harmonises the national nomenclature of the customs tariff with the combined nomenclature of the European Union for 2021.

Montenegro is implementing the Regional Convention on Pan-Euro-Mediterranean (PEM) preferential rules of origin. The country implemented the Authorised Economic Operators (AEO) programme and, in 2020, two authorisations were granted to large economic operators.

Further alignment of legislation on drug precursors and 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 Customs Administration became part of the newly established service, Revenue and Customs Administration, in April 2021. The reorganisation affected many expert and management positions and its possible impact on the functioning of the services as well as on ongoing EU support programmes, and needs to be carefully monitored.

The IT department has been reinforced to a limited extent with two new employees, while four more posts are foreseen. Continuous development and adequate staffing of the IT department is essential for implementation of ongoing and complex future IT projects.

In March 2021, Montenegro was included in the Common Communications Network (CCN), thus achieving further operational progress towards accession to the Transit Convention and establishing a new computerised transit system (NCTS). Since January 2021, several IT systems used in the NCTS are tested by the customs staff and external users. Awareness raising sessions on the NCTS are organised for the trade community and the banking sector. Functionalities of the risk management system have also been developed. Customs laboratory started operating in September 2020 and performs analyses of oil and oil derivatives in accordance with the required standards, however the accreditation process is delayed.

On the collection of customs debt, the adoption of the model for the write-off of the customs debt is pending. As of 1 January 2021, the new excise IT system is operational and enables the collection, recording, storage, processing and submission of data on excise duties in electronic form. In addition, the system will enable future connection with the EU Excise Movement and Control System (EMCS).

In the context of the COVID-19 pandemic, revenue collection by the Customs Administration in 2020 amounted to approximately EUR 670 million, which is 18% less compared to the same period last year. The same trend is noted for the first quarter of 2021.

As a party to the WHO Framework Convention on Tobacco Control and the Protocol to Eliminate Illicit Trade in Tobacco Products, Montenegro has to establish a tracking and

tracing system of tobacco products in order to improve supply chain control and enhance the fight against illicit tobacco trade. Some improved features (installed ramps and cameras for reading plates and video surveillance at the entry-exit points) have been added to the IT functionality in the port of Bar, ensuring better monitoring of tobacco movements and the port operators. Still, significant challenges remain in reducing illicit tobacco trade. In particular, the presence of offshore letterbox companies at the free zone in the port of Bar and their role in the tobacco supply chains remains a major source of concern. A wider control of the companies operating in the free zone and of their activities would make the fight against cigarette smuggling more effective.

Further efforts should be invested in capacity building, hiring human resources and enhancing international cooperation in this regard. In April 2021, the Memorandum of understanding between the Customs Administration and ‘Philip Morris Montenegro’ was signed, specifying cooperation in the field of information exchange, identification of illegal products and monitoring of movement of illegal tobacco products. The decision to prohibit the storage of tobacco products in the free zone of the port of Bar, taken by the government in July 2021, is welcomed, though its implementation will need to be closely monitored.

#### **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 in November 2020.

Limited progress was achieved in removing legal obstacles to create a day-ahead energy market; advancing preparatory work for the implementation of the Transport Development Strategy and in further alignment with the EU *acquis*, on nature protection and to develop the National Energy and Climate Plan.

In the coming period, Montenegro is invited to focus on the following areas: complete key sector reforms in the transport area; complete legal alignment in the energy sector; continue implementing the Transport Development Strategy, strengthen the administrative capacities to prepare for trans-European networks in the areas of transport, telecommunications and energy and continue to harmonise the legal framework with TEN-T and TEN-E Regulations; 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. **No progress** was made in the reporting period in completing key sector reforms, and so the previous recommendations remain valid.

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

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

On **general transport**, implementation of the 2019-2035 transport development strategy is lagging behind, as the 2021-22 action plan is yet to be prepared. The strategic framework shall be further aligned with the European Union's Sustainable and Smart Mobility Strategy. Montenegro has yet to decide on seasonal changes of time and would need to align its legislation concerning summertime arrangements accordingly. There was no further 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. The Commission for Investigation of Accidents in Maritime, Rail and Air Transport continued to work in line with its mandate, but its operational and financial sustainability remains to be strengthened.

The Ministry of Transport and Maritime Affairs became part of the new Ministry of Capital Investments. The reorganisation led to the resignation of experienced staff and there is an urgent need to rebuild capacity of staff working in regulatory functions.

On **road transport**, in July 2020, the new Law on roads was adopted, while the legislation on Intelligent Transport Systems and the strategic framework remains to be adopted. In June 2021, the Government of Montenegro has established a national body for coordination and inter-institutional management of road safety. The reform of the inter-city transport of passengers envisaged under the Economic Reform Programme is pending decision on the concrete actions to be taken. Montenegro is applying digital tachographs, but remains to be aligned with the EU *acquis* on smart tachographs. The amendments to the Law on transport of dangerous goods and to the Law on contracts on carriage in road transport have not been adopted yet and the national body for the control of transport of dangerous goods has still not been set up.

A biannual 2020-2022 programme for road safety improvement is in place to implement the Law on road traffic safety. Montenegro shall strive to develop a long-term road safety strategy and action plans, in line with the EU Road Safety Policy Framework 2021-2030. The aim is to halve the number of fatal and serious road traffic injuries, which is still well above the EU average. The ongoing 2019-2022 programme for the reconstruction of state roads has the potential to improve Montenegro's road safety records. However, the lack of service level agreements between the Ministry of Capital Investments and road authorities/public enterprises may hamper the implementation and sustainability of the programme.

On **rail transport**, the adoption of the new railway law was postponed again. The Railway Administration operates as an independent administrative authority, but its safety and regulatory tasks remain to be specifically set out in the new railway law. Public transport and compliance with passengers' rights remain a concern. Implementing legislation for the interoperability of the rolling stock subsystem in line with the EU *acquis* was adopted in December 2020. The methodology for track access charges has not been updated since 2013 and it is only partially aligned with the EU *acquis*. There was no progress on full market opening for passenger and freight transport services. Sustainable and rationalised railway infrastructure reconstruction and multi-annual maintenance plans need to be urgently developed. Montenegro shall strive addressing the key challenges through effective implementation of the rail action plan aiming at addressing the key Transport Community Treaty and regional priorities.

On **maritime transport**, no progress was made on achieving full member status of the Paris Memorandum of Understanding on Port State Control. The implementation of the National Maritime Single Window, as well as the upgrading and extension of the current vessel traffic monitoring and information system have been further delayed. The Law on ratification of international convention on oil pollution preparedness, response and co-operation was adopted in May 2021. Some amendments to the Law on safety and maritime navigation, as well as the Law on the rights of passengers in maritime and inland navigation were adopted in July 2020. Montenegro is yet to align with the EU *acquis* on ports and to adopt legislation based on the Port Services Regulation.

No progress was made on the alignment with relevant EU *acquis* on **inland waterway transport**. Due to the limited scope of the inland navigation, the legislation should mainly focus on classification of the vessels and inland waterways, qualifications for inland navigation crews, requirements for safe navigation and delegation of administrative functions to authorised bodies. The law on merchant shipping remains to be adopted.

On **aviation**, amendments to the Law on air transport were adopted in July 2020. The new amendments will be instrumental in the successful completion of the first transitional phase of the European Common Aviation Area and the Single European Sky. The adoption of implementing legislation provided further alignment in air safety and air traffic operations. The tender for the concession to operate Airports of Montenegro, launched in October 2019, was suspended in 2020. The process, once reactivated, would be a test for Montenegro's commitment to comply with the EU standards of fair and transparent public procurement and State aid rules. The certification of airports in Podgorica and Tivat is still not completed, as a result they are categorised as airports with no designation status. In December 2020, Montenegro Airlines permanently stopped its operations following the decision of the state aid authority that declared the state aid to the airline illegal. In January 2021, the government established a new national airline branded "Air Montenegro", which started operations in June 2021. Any economic continuation should be eliminated between these two companies in line with competition and state aid rules.

As regards **combined transport**, the transport strategy prioritises investment in the main intermodal terminals. The legislation on combined freight transport from 2014 remains the main legal framework, but significant efforts are still needed on implementation and enforcement, in particular on incentives to road users and the establishment of intermodal terminals.

## 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. **Limited progress** was made in the reporting period, with the amendments to the Law on energy that removed legal obstacles to create day-ahead energy market. Last year's recommendations were not addressed. Many legal initiatives are still pending and further progress in this chapter is conditional on their adoption and implementation, including through the necessary implementing legislation.

In the coming year, Montenegro should, in particular:

- create or join a functioning day-ahead electricity market and couple with neighbouring markets, including Italy;
- move to market-based support schemes for renewable energy production and streamline

the permitting and connection procedures;

→ adopt the law on security of supply of oil products and set up the stockholding body for the mandatory oil reserves.

In the area of **security of supply**, Montenegro has an energy development strategy up to 2030. The government adopted the energy balance for 2021 in November 2020. The revision of the 2015 action plan on compulsory strategic reserves of oil and petroleum products is still pending. The Law on security of supply of oil products and the relevant implementing legislation remains pending, and the central body for strategic oil reserves still needs to be set up. The current level of oil stocks remains close to zero.

The Law on energy was amended in July 2020. Amendments relate in particular to facilitating the development of the first National energy and climate plan, the generation of **electricity** from renewable sources or high-efficiency cogeneration for own needs and changes necessary for the functioning of organised day-ahead and intraday markets.

A Chinese-Montenegrin consortium signed the contract on the ecological reconstruction of the Plevlja thermal power plant in 2020, but works have not yet started. Meanwhile, according to the data provided by the European Network of Transmission System Operators for Electricity (ENTSO-E) in November 2020, the plant exhausted its operating hours allocated under the EU's Large Combustion Plants Directive (LCPD) "opt-out" derogation.

The energy-related departments of the former Ministry of Economy became a Directorate in the newly created Ministry of Capital Investments in December 2020. Out of the 23 posts in the Directorate, 20 are currently filled by the former employees from the Ministry of Economy.

Concerning the **internal energy market**, in 2020 the Energy and Water Regulatory Agency of Montenegro adopted several decisions related to the conditions of service and pricing of gas and electricity supply for small customers and households. The Agency approved rules concerning allocation of transmission capacities. In accordance with the Energy law, the Montenegrin power exchange (BELEN) adopted rules of organisation and functioning of power exchange market, enabling the procurement of electricity to cover losses in the transmission and distribution through the auction system. The auction for losses in the transmission system for the first quarter of 2021 was organised in December 2020.

A day-ahead electricity market is not yet functional. Preparatory activities are underway for the selection of a service provider, following the termination of talks on strategic partnership with NordPool in June 2020. Preparatory work towards coupling of the electricity markets of Albania, Italy, Montenegro and Serbia was completed. The amendments to the Law on energy defined the roles and responsibilities of the nominated electricity market operator, the transmission operator and the regulator in the market coupling process. The Regulation 1227/2011 on Wholesale Energy Market Integrity and Transparency remains to be implemented.

On **hydrocarbons**, national legislation is aligned with the Hydrocarbons Licensing Directive. The Ministry of Capital Investment prepared the Law on Safety Measures in Offshore Exploration and Production of Hydrocarbons to transpose the Safety of Offshore Operations Directive, but adoption of the law by the government is expected only in the fourth quarter of 2021. Montenegro granted two concession contracts for the exploration and production of hydrocarbons offshore of Montenegro. The drilling of exploration wells started in April 2021. The government also extended the exploration period for the second concession contract, by another year. 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. Work continued on the preliminary design of the Ionian-Adriatic Gas Pipeline.

In the area of **renewable energy**, 38.8% of gross final consumption of energy came from renewable sources in 2018, taking into account revision of biomass data (to be updated after the ISC, when new data become available). This exceeded the 33% target to be achieved by 2020 under Montenegro's national action plan. Rules for auctions granting support to renewable energy producers compliant with the guidelines on state aid for environmental protection and energy remain to be adopted.

In October 2020, the electric power company (EPCG) submitted to the Ministry of Economy a concession offer on the construction, maintenance and use of the Komarnica hydropower plant for electricity production. At the same time, the government concluded and terminated a number of concession agreements for small hydropower plants. It remains essential that the development of new projects, particularly on hydropower, be carried out in conformity with the EU *acquis* on concessions, State aid and the environment.

In the area of **energy efficiency**, progress was achieved on alignment with the EU Energy Performance of Buildings Directive and with the Labelling Regulation, as the process of establishing an inventory of buildings was finalised defining reference buildings. In November 2020, the first operational version of the software for the calculation of energy performance of buildings was finalised (with the exception of energy performance certificates section). The Ministry of Capital Investments continued the implementation of projects on energy efficiency improvement for the public and the household sectors. The energy efficiency fund has not been established yet. There have been no developments on improving statistical data collection and on monitoring the implementation of the energy efficiency action plan.

**On 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. Montenegro has provided all necessary information towards becoming an operational member of the Community arrangements for the early exchange of information in the event of radiological emergency (ECURIE). However, Montenegro is yet to join the European Radiological Data Exchange Platform, which is part of the ECURIE arrangements. Montenegro has currently no intention to participate in the Capital and Advisory Committee of the Euratom Supply Agency, but is planning to become a member of the European Nuclear Safety Regulators Group.

## **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. **Limited progress** was made in the reporting period on implementation of the Transport Development Strategy, mostly by advancing preparatory work on various projects. Current and future infrastructure investments need to comply fully with the EU standards on public procurement, state aid and environmental impact assessment. The investments need to be implemented in accordance with cost-benefit analyses carried out in line with the EU best practice.

The 2020 recommendations remain valid, and in the coming year Montenegro should in particular:

→ continue to implement the Transport Development Strategy and adopt a related annual

action plan addressing project absorption issues and delays;

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

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

On **transport networks**, Montenegro takes part in the Transport Community Treaty (TCT) and is involved in the TCT Regional Steering Committee meetings as well as other TCT technical committees (the railway, road safety, transport facilitation and road technical committees). The Montenegrin authorities are encouraged to step up efforts to implement action plans on key Transport Community Treaty (TCT) and regional priorities.

The 2019-2035 transport development strategy is in place, however the adoption of the action plan for 2021-2022 is delayed. In August 2020 the government adopted a single project pipeline, which includes 58 projects in the energy, transport, environment and social sectors as well as digital infrastructure worth EUR 5.1 billion. However, the cost estimation and maturity statements on transport projects remain outdated and the reconfirmation of the single project pipeline priorities by the new government is still pending.

On **infrastructure development**, the construction of the Bar-Boljare highway on the priority section between Smokovac and Matesevo, which is being implemented with a Chinese loan, experienced continuous delays, partly due to COVID-19 pandemic, and cost overruns. The section is now expected to be finalised by the end of 2021. The project is being implemented in the context of the trans-European transport network (TEN-T), which is part of the indicative extension of the Orient East-Med corridor in the Western Balkans. Under the Western Balkans Investment Framework, Montenegro applied for co-financing for the construction of the second section of the highway. However, the application is on hold pending the finalisation of the EU-financed cost-benefit analysis for the entire Bar-Boljare highway, including on recommended construction standards and suggested means of financing for the remaining sections, which is expected in July 2021.

The work on design studies for Budva bypass section of the Adriatic-Ionian highway progressed very slowly, due to administrative delays. The upgrading of the Bar-Vrbnica railway continued with EU funding.

Current and future infrastructure investments need to comply fully with the EU standards on public procurement, state aid and environmental impact assessment. The investments need to be implemented in accordance with cost-benefit analyses carried out in line with the EU best practice.

On **energy networks**, progress continued on interconnecting the electricity systems of Serbia, Bosnia and Herzegovina, Italy and Montenegro, with works on two transmission lines between Pljevlja (Montenegro) and Cevo and Bajina Basta – Visegrad (Serbia). Montenegro requested a change in the previously agreed route (from land to sea) of Montenegro's section of the Ionian-Adriatic Gas Pipeline (IAP) in the area of Kotor Bay. Planned activities, including development of EU-funded preliminary design, preparation of environmental and social impact assessment, and preliminary investment cost estimate on the Albania-Montenegro section of the route were delayed on the Montenegro side pending confirmation on the exact route. Both energy projects are included in the list of projects of Energy Community interest, adopted by the Council of Ministers of the Energy Community in December 2020.

Montenegro is yet to align fully its legislation with the TEN-T and TEN-E EU *acquis*. 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 alignment with the EU *acquis*, on nature protection and to develop the National Energy and Climate Plan. Significant efforts are still needed on implementation and enforcement, in particular on waste management, water quality, nature protection and climate change. In the coming years, Montenegro should considerably step up ambitions towards a green transition. The 2020 recommendations remain valid.

In the coming year, Montenegro should in particular :

- effectively implement the action plan for the fulfilment of the closing benchmarks in the Chapter 27 upon schedule, especially in the waste, water and nature protection sectors;
- take urgent measures to preserve and improve the ecological value of protected areas and potential Natura 2000 sites such as Ulcinj Salina, Lake Skadar, the Tara river and other river courses;
- step up the development of the national energy and climate plan in line with the Energy Community recommendations.

### Environment

On **horizontal legislation**, in November 2020, the government adopted the final report on implementation of the national strategy for the transposition, implementation and enforcement of the *acquis* in the area of environment and climate change. According to the report, 229 out of 348 activities were completed for the period 2016-2020. Important achievements remain to be completed, such as in the waste and water sectors and on nature protection. In October 2020, the government adopted the report on the state of environment in Montenegro for 2019 and the annual work programme and budget for the Eco Fund, which is now operational. In February 2021, the government adopted the action plan for the fulfilment of the closing benchmarks in Chapter 27, comprising 251 activities. In the reporting period, Montenegro completed 20 strategic environmental assessments (SEA) and 101 environmental impact assessments (EIA). On environmental liability, three procedures are ongoing. Monitoring on environmental crime continued. 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.

In the area of **air quality**, in March 2021, the inventory of emissions of air pollutants for the period 1990-2019 was submitted to the European Environment Information and Observation Network (EIONET) and the Secretariat of the Long-Range Transboundary Air Pollution Convention. The Strategy on Air Quality Management for the period 2021-2029 with the Action Plan 2021-2022 are pending adoption. It includes air quality plans for the three air quality zones in Montenegro and an air pollution control programme. Montenegro continued with regular monitoring of fuel quality in line with the EU *acquis*.

Regarding **waste management**, Montenegro remains partially aligned with the EU *acquis*. 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 after expiry of the one for 2015-2020. The details of the country's waste management model and the modalities of its implementation remain to be clarified. Awareness campaigns were conducted to promote waste separation and appropriate disposal. The list of unregulated landfills was updated, in collaboration with civil society organisations. There remains an urgent need to remedy illegal waste disposal and the use of temporary waste disposal in all municipalities. Infrastructure for separate waste collection and recycling remains to be established across the country.

Alignment on **water quality** remains limited. Water management plans for the Danube and Adriatic basins are not yet finalised. Implementation of the law on marine environment protection has started and preparation of the relevant implementing legislation has advanced. Montenegro started to review the concessions granted for the construction of small hydropower plants and revoked some of them. Investments in hydropower need to comply with national and international nature protection and water management obligations, ensure public participation and consultation, and guarantee high quality environmental impact assessment (EIA) reports that include cumulative impacts on nature and biodiversity.

On **nature protection**, Montenegro is partially aligned with the EU *acquis*. The process of identification of potential Natura 2000 sites continued in the reporting period with funds provided from the national budget. The Ulcinj Salina land was clarified to belong to the state on 21 July 2021. Further national support was provided for the Salina's maintenance. Montenegro reports on its protection activities on a quarterly basis. Collaboration with Germany was established to develop and implement the Salina's sustainable management and protection, which remains urgently needed. The report on implementation of recommendations on Skadar Lake was submitted to the Bern Convention which requested a follow-up report. Montenegro continued to monitor the impact of the Bar-Boljare highway construction on the flora and fauna of the Tara river in response to a recommendation of the joint World Heritage Centre/IUCN advisory mission in November 2018. Field research for three marine protected areas were concluded and nature protection studies drafted for all three areas. Platamuni area was proclaimed as a first Marine Protected Area in Montenegro in April 2021. Beech forests of the Biogradska Gora National Park were nominated for inclusion in the UNESCO world heritage "Ancient and Primeval Beech Forests of the Carpathians and Other Regions of Europe". Montenegro stopped the military use of the training area on the Sinjajevina mountain, part of the UNESCO Tara River biosphere reserve. A limited baseline study on its biodiversity was completed.

On **industrial pollution control and risk management**, Montenegro is partially aligned with the EU *acquis*. Implementing legislation was adopted to the law on industrial emissions. Activities continued in the field of industrial waste management and to establish a national pollutant release and transfer register (PRTR). The Pljevlja coal power plant exceeded the agreed remaining number of operating hours as concerns compliance with the Large Combustion Plants Directive, while its reconstruction to work in line with modern environmental standards was delayed. The Energy Community launched a procedure against Montenegro. Despite this, Montenegro continues to operate the plant with explicit agreement of the government.

On **chemicals**, Montenegro is partially aligned with the EU *acquis*. Further secondary legislation was adopted.

On **noise**, the European Environment Agency acknowledged, in its 2020 report on environmental noise, the strategic noise map for the capital Podgorica as the first of its kind in the region.

On **civil protection**, Montenegro has been a member of the Union Civil Protection Mechanism since April 2015. Following 2020 recommendations Montenegro stepped up its activities, in particular by developing the national rescue and protection plans against various types of hazards, and through conducting numerous staff and field exercises and collaboration with EU, NATO and other international partners. As precondition for the establishment of the connection between Montenegro and the Common Emergency Communication and Information System (CECIS), the Secure Trans European Service for Telematics (sTESTA) was installed.

### 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. 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 Monitoring and Reporting Mechanism (MMR). In July 2020, the government adopted the third national climate change report in the UN Framework Convention on Climate Change. In June 2021, the government adopted the report for preparing the updated nationally determined contributions (NDC) in the frame of the Paris Agreement. The revision of the NDC sets as new target to reduce by 35% Montenegro's greenhouse gas emissions by 2030. This is only a 5% increase from the previous target and should be further stepped up. Implementing legislation to the law on protection against negative impacts of climate change was adopted. A national climate change adaptation plan was adopted in April 2021. The development of the national energy and climate plan started as a basis for the preparation of the low carbon development strategy.

### **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 EU Structural and Investment 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 and by improving the administrative capacity for regional policy and for the coordination of structural instruments. 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: to 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 2021-2027 period; to continue upgrading food establishments and further strengthen administrative capacity in particular on food safety controls and fisheries; to continue implementing the action plan for meeting EU cohesion policy requirements and ensuring all necessary capacity for the handling of indirect management programmes in IPA; 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 in the implementation of the instrument for pre-accession assistance for rural development programme (IPARD II) through further calls and entrustment of one further IPARD measure. The implementation of the action plan on EU *acquis* alignment was limited.

In the coming year, Montenegro should in particular:

- step up the implementation of the IPARD II programme, seek entrustment for implementing the '*Technical assistance*' measure and submit the draft IPARD III 2021-2027 programme to the Commission for adoption;
- 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 2021-2027.

On **horizontal issues**, the preparation of the strategy for agriculture and rural development for 2021-2027 is pending. The agricultural sector suffered from the significant reduction of demand for products due to tourism decrease, linked to COVID 19. Economic packages adopted to mitigate the effects of the COVID-19 pandemics include farmers and agribusinesses. Implementation of the activities under the action plan on alignment with the EU *acquis* on agriculture and rural development should continue. Progress still needs to be achieved by fully decoupling direct payment measures from production while linking payments to cross-compliance requirements.

In the integrated administration and control system (IACS), there was limited development of the land parcel identification system (LPIS), which remains to be rolled out to the whole territory. Preparations for the software for the farm accountancy data network (FADN) continued. Farm advisory services need to be further strengthened.

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

On **rural development**, five IPARD calls were realised for measures '*Investments in physical assets of agricultural holdings*' and '*Investments in physical assets concerning processing and marketing of agricultural and fishery products*'. Montenegro was entrusted with budget implementation tasks for the IPARD measure '*Farm diversification and businesses development*' in 2020, and the first call was opened in June 2021. The preparation process for the IPARD measure '*Technical assistance*' needs to be accelerated. More effort is needed as Montenegro was slow with the implementation of a scheme of advance payments under IPARD II, which could have a negative impact on their access to EU funds at the end of 2021. In 2020, the capacity of the IPARD Agency was increased by 24 staff, including four employees in the first regional office in Bijelo Polje. The IPARD Agency currently has 84 employees.

As regards the **quality policy**, two new designations of origin were registered for wine. Training was conducted to strengthen the capacity of the control body Monteorganica and for the producers of food protected by the national quality schemes. Recommendations from the EU Peer Review Mission in November 2019 should be followed-up.

The **organic farming** sector has the required infrastructure in place (i.e. the competent authority, an accreditation system for control bodies and a certification system). With about 4,000 hectares under organic production, the sector is still small, but has been growing steadily. The potential for further development and expansion of the sector should be supported.

## 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, in particular on in implementing the national strategy for aligning with and implementing the EU *acquis*. The upgrading of establishments and the implementation of programmes continued.

In the coming year, Montenegro should in particular:

- continue to implement the revised strategy for aligning with and implementing the EU *acquis*;
- continue to support the ongoing process of upgrading food establishments;
- continue to strengthen 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 2020 programme for food and feed safety measures was implemented and the programme for 2021 was prepared.

On the **veterinary policy**, the programme of mandatory animal health protection measures for 2020 was completed, including preventive measures against lumpy skin disease, bluetongue disease and other potentially hazardous infectious diseases. The new programme for 2021 was prepared. The multiannual programme for the eradication of rabies discontinued, with the last vaccination campaign implemented in spring 2020. Montenegro is yet to resume vaccination against rabies. Taking full ownership of vaccination campaigns, Montenegro should transition to using its own means for future campaigns in line with obligations to harmonise with the relevant EU *acquis*. Setting up and implementing robust disease surveillance is urgent. The African Swine Fever risk management measures were partially implemented. This was accompanied by awareness-raising and on-the-spot training programmes for veterinarians and other stakeholders. A stray dog control strategy remains outstanding.

On **placing on the market of food, feed and animal by-products**, upgrading of establishments for products and by-products of animal origin continued. Some 68 establishments producing food of animal origin are compliant with EU regulations and 15 of them have been licensed to export to the EU. The first establishment for goat milk processing and a major fishery products processor with 19 facilities joined the EU list in 2020. Montenegro continued to implement the plan for the management of animal by-products not intended for human consumption and the national programme for improving raw milk quality and handling non-compliant milk. Strengthening administrative and inspection capacity and related infrastructure needs to remain a priority.

Further implementing legislation on **food safety rules** and on **specific rules for feed** was adopted. The Program of food and feed safety measures for 2020 was implemented.

On **phytosanitary policy**, implementing legislation was adopted in 2020, together with implementing programmes on phytosanitary measures and on the monitoring of pesticide residues in food. The programme of phytosanitary measures for 2021 was prepared. 2020-2021 actions of the national plan for sustainable use of plant protection products were implemented.

The European and Mediterranean Plant Protection Organisation (EPPO) updated the status of the harmful Asian longhorn beetle (*Anoplophora glabripennis*) in Montenegro to “*Absent, pest eradicated*“, thanks to a strong supervision since the organism’s first observance in 2015.

On **genetically modified organisms**, the 2020 programme for genetically modified food and feed monitoring was implemented and the programme for 2021 was prepared.

### **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 in the reporting period 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 is ongoing. It will provide the necessary baseline for the preparation of the new fisheries and aquaculture strategy and related action plan.

The Law on structural measures and State aid in fisheries and aquaculture and the Law on market organisation in fisheries and aquaculture, adopted by the government in December 2019, remain pending adoption by new Government.

Implementing legislation on sport and recreational fishing at sea was adopted during the reporting period.

The capacity building of the administration and inspection staff continued with TAIEX support.

On **resource management**, the annual data collection programme on Montenegrin fisheries for 2020 was implemented and the activities have continued in 2021. The socio-economic research for 2019, disrupted by COVID-19 pandemic, was finalised and the data was provided to the General Fisheries Commission for Mediterranean (GFCM).

In the area of **fleet management**, a public call on fleet modernisation is under preparation.

Regarding **inspections and control**, the working group for the fight against all forms of illegal fishing continued its activities in line with its action plan. The new state-of-the-art inspection vessel was put into full operation.

There were no substantial developments on **structural actions** and **market policy**. In order to overcome the impact of the COVID-19 crisis on fisheries, the government set up a dedicated support programme for agriculture and fisheries in its economic packages adopted to mitigate the effects of the COVID-19 pandemic. For the fisheries, this includes income support, loan rescheduling and a favourable credit line.

At the **international level**, Montenegro continued its cooperation with MedFish4Ever, the INTERREG programmes and the GFCM.

## **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** regarding regional policy and coordination of structural instruments. **Limited progress** was made over the reporting period, particularly with administrative capacity, as well as with investment planning and preparation. 2020 recommendations remain valid also in the coming year. Montenegro should in particular:

- continue the implementation of the action plan for meeting requirements deriving from EU cohesion policy;
- increase the administrative capacity of central, regional and local bodies to more effectively safeguard IPA funds, ensuring that the positions in the structures are filled on a permanent basis, retaining key staff while increasing engagement into effective coordination mechanisms for improved project preparation and monitoring, with emphasis on the strengthening the single project pipeline;
- ensure that all instruments are compliant with EU requirements in terms of programming and partnership principles while factoring the requirements of future structural/cohesion funds into the institutional set-up increase.

Regarding the **legislative framework**, a number of implementing regulations related to the Law on public procurement, the Law on public-private partnership and the Law amending the Law on concessions were prepared and adopted in 2020.

The **institutional framework** for cohesion policy has still to be decided while its formal and legal definition should be framed under the Law on European Structural and Investment Funds. This should link to the future Managing Authority and be based on the rules foreseen in the draft EU Regulation establishing the Instrument for Pre-accession Assistance (IPA III) for the period 2021-2027. Capacities and resources for managing the EU's IPA financial assistance still require strengthening. Moreover, Indirect Management should best be used in sectors that are precursors of shared management upon accession.

Regarding **administrative capacities**, the lack of adequate resources of key institutions involved in the planning and management of EU funds remains a weakness. The employee turnover in the IPA system was high during 2020 resulting in the suboptimal quality of documents, and delays cumulating in the financial loss of more than EUR 6 million of IPA 2016 funds. The practice of contracting large proportions IPA funds close to contracting deadlines must be avoided. The retention policy introduced in 2019, was temporarily discontinued until February 2021 impacting negatively on performance. Absorption of

capacity building remains low. Further investment in resources, particularly in the Public Works Administration is needed.

In the area of **programming**, first drafts of the strategic response and of the IPA 2021 programmes were prepared. There remains a need to allocate resources efficiently and build sector pipelines for future structural funds management since the lack of project maturity hinders programming and implementation. The first ever project preparation facility for the environmental sector was only contracted in December 2020. While a decision on the composition of the National Investment Committee (NIC) was adopted in March 2021, there is still a requirement for greater coordination around investment planning, better synergies and coherence between the development of national policies and strategies and EU membership requirements. Capacity for the management of capital/infrastructure investments remains weak, particularly at the level of line ministries. The greater involvement of social partners, business, academia and international actors in the definition of policy priorities, their development and implementation, is still needed.

In the area of **monitoring and evaluation**, regular activities continued in line with IPA procedures but the pace of contracting programmes under indirect management remains slow. For the first time, a mid-term evaluation of projects in indirect management was conducted, while a wider country Commission managed evaluation with conclusions and recommendations was completed in June. The development of a comprehensive monitoring, evaluation and learning framework is recommended in order to improve the monitoring of priority policy measures.

For **financial management, control and audit**, limited progress was made in the establishment of the Management and Information System. The capacity of the Audit Authority continued to improve. The impact of the reorganisation made in the internal audit IPA system made during 2020 is still not clear.

### **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. **Some progress** was achieved under this chapter during the reporting period, both in the coordination and management of own resources and in the underlying policy areas affecting the correct application of the own resources system. However, the 2020 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;
- ensure adequate capacity at the Directorate for Coordination and Management of EU resources and at all institutions involved in the own resources system and implement



the own resources system action plan within the deadlines set.

**On traditional own resources**, analysis of the accounting rules (A&B accounts) continued and progress was made to mark and define income according to its future classification in A and B accounts, based on whether the receivables are paid, unpaid, secured, unsecured or disputed. Simulation exercises on A and B accounting and on submission of reports on detected cases of fraud and irregularities were organised. The fraud reporting in line with the own resources database (OWNRES) requirements improved with the preparation of several reports on seized goods. Amendments to the Customs Law for the regulation of compulsory enforcement on movable and immovable property are under preparation. On the collection of customs debt, the adoption of the model for the write-off of the customs debt is pending. The application of the Law on public sector accounting is postponed to 2022, and the Revenue and Customs Administration is preparing to use the double bookkeeping rules as from next year.

**On value added tax-based resource**, in July 2020, the Parliament approved amendments to the Value Added Tax Law, which led to adjustments to trade taxation of certain products, services and imports. Further alignment of the Law on VAT with the EU *acquis* remains necessary, in particular removing VAT and other tax exemptions that are not aligned to the EU *acquis*.

**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 needed as regards the exhaustiveness of the national accounts and GDP/GNI calculations.

As regards **administrative infrastructure**, the administrative capacities of the Directorate for coordination and management of own Resources of the EU within the Ministry of Finance and Social Welfare and, more in general, of all institutions involved in the own resources system, remain weak. An EU Twinning project under preparation will support Montenegro in setting up an efficient management of own resources.

The implementation of the own resources action plan, adopted in spring 2019, is ongoing. Annual progress reports are prepared and submitted to the government for adoption.

#### **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 & 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, 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 non-proliferation, with some positive results within CEFTA, in particular during the COVID-19 pandemic through the 'priority green lanes' initiative.

Montenegro is encouraged to continue its full alignment with all EU positions and declarations and 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. Montenegro is invited to continue legislative alignment where necessary, and is also encouraged to implement actions under the common regional market based on EU rules, including through cooperation with CEFTA and the Regional Cooperation Council.

## 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.*

Concerning European standards on external relations, Montenegro has achieved a **good level of preparation**. **Some progress** was achieved in terms of full implementation of CEFTA Additional Protocol (AP) 5 on trade in goods, and launch of AP 7 negotiations on dispute settlement. The recommendation to adopt the draft law on export control of dual-use goods has been outstanding for several years and thus remains valid.

In the coming year, Montenegro should in particular:

- adopt the law on export control of dual-use goods, in line with the EU *acquis*;
- ratify and implement CEFTA AP 6 on trade in services,
- actively participate in the implementation of actions under the Common Regional Market.

On the **common commercial policy**, Montenegro continued to coordinate its positions with those of the EU, including within the WTO, also in view of the WTO XII Ministerial conference. Adoption of the trade facilitation strategy implementation report covering 2019 and the first half of 2020 is pending. Since the outbreak of the COVID-19 pandemic, Montenegro has not banned the import, export, or transit of goods, nor has it imposed any trade restrictions.

The draft Law on export control of dual-use goods has been pending parliamentary adoption since May 2020. Further investment in upgrading the administrative and control capacity would be beneficial. Montenegro's application process to join the Wassenaar Arrangement is still pending, while the country launched an initiative for membership in the Australia Group.

In February 2021, the government adopted amendments to the decree on foreign trade of rough diamonds, amending the list of participants in line with the Kimberley Process certification scheme.

Once the written opinion of the Agency for Protection of Competition is received on compliance with state aid rules, Montenegro should complete the draft decree on export credit insurance against non-market risks. This decree follows the adoption of the Law on the investment and development fund, which regulates the issuing and financing of export credits.

Montenegro continued to participate in CEFTA during the reporting period. In view of the COVID-19 pandemic, Montenegro took part in CEFTA's coordination body establishing 'green priority lines' that ensured the free flow of necessary goods, the exchange of information on consignments via the System of Electronic Exchange of Data (SEED) as well as the submission of notifications to the relevant inspections. Ratification of Additional Protocol 6 on trade in services is pending in Parliament. Montenegro committed to a constructive approach in negotiations on Additional Protocol 7 on trade dispute settlement and participation within the Common Regional Market. Montenegro should reflect the latest EU policy developments in its new bilateral investment treaty model, currently being developed. Montenegro has 23 bilateral investment treaties currently in force, more than half with EU member states.

Concerning **bilateral trade agreements**, negotiations continue to amend Montenegro's free trade agreement (FTA) with EFTA countries concerning the rules of origin related to the revised PEM (pan-Euro-Mediterranean) Convention. The ratification process is ongoing

regarding amendments to the 2019 FTA with Turkey, which aim to ensure additional liberalisation of trade in agricultural products and access to the services market.

In March 2021, Montenegro adopted information on concluding the Agreement on Trade, Partnership and Cooperation between Montenegro and the United Kingdom of Great Britain and Northern Ireland. The negotiations are yet to start on the matter. Montenegro should take continued care to avoid any violation of obligations arising from the Stabilisation and Association Agreement.

On **development policy and humanitarian aid**, implementing legislation is yet to be adopted for the Law on international development cooperation and international humanitarian assistance. 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**. **Some progress** was made during the reporting period, including in the area of non-proliferation. Montenegro continued to fully align with EU positions and participate in EU crisis management missions and operations under the common security and defence policy.

In the coming year, Montenegro should in particular:

→ maintain its full alignment with the EU foreign, security and defence policy.

The regular **political dialogue** between the EU and Montenegro on foreign and security policy issues continued. (For more information on developments in bilateral relations with other enlargement countries and EU Member States, *see section Regional issues and international obligations*.)

On **common foreign and security policy**, Montenegro continued its 100% alignment with all relevant High Representative statements on behalf of the EU, and Council decisions. This is a strong signal of the country's commitment to its EU path.

Montenegro 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.

Regarding **non-proliferation**, in July 2020 Montenegro took over the semi-annual presidency of the consultative commission of the sub-regional arms control agreement (Article IV of the Dayton agreement) and hosted several online meetings in this framework. In November 2020, the government adopted a decision to establish the national coordination body for the non-proliferation of weapons of mass destruction. Work is underway to prepare a 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.

Montenegro continues to implement its 2019-2025 strategy and action plan for combating illegal possession, misuse and trafficking of **small arms and light weapons** (SALW), and remains actively engaged in the implementation of the Western Balkans SALW Roadmap. The country also continued to participate in the EU cooperation programme on effective arms export control, strengthening intra-agency cooperation and participating in relevant expert meetings.

On **security and defence**, Montenegro continued implementing the Defence Strategy adopted in 2019 and the related action plan, as well as its agreement with the EU on **security procedures** for exchanging and protecting classified information, including issuing EU security clearances for relevant Montenegrin personnel.

Montenegro continued good **cooperation with international organisations** (UN, OSCE, Council of Europe) and remains an active member in NATO exercises and missions, including in NATO KFOR in Kosovo. The country harmonised its national defence planning with the NATO defence planning process and in July 2020 adopted the rulebook on defence planning.

The country continued to participate 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. Montenegro continued its participation in the UN peacekeeping operation MINURSO. In December 2020, the Ministry of Defence rotated its officers, sending female officers to the mentioned UN mission in support of the UN policy on greater representation of women in peacebuilding processes.

Regarding **hybrid threats**, Montenegro engaged in the EU's hybrid risk survey, with the objective of identifying systemic vulnerabilities and further focusing the assistance provided by the EU in this field. A draft strategy on countering hybrid threats and related action plan are pending adoption. The mapping of potential joint support actions with the EU continued during the reporting period and the establishment of an independent cyber security agency is under preparation. Montenegro is a member of the European Centre of Excellence for Countering Hybrid Threats.

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

Within the framework of the **accession negotiations**, by October 2021, 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. The Stabilisation and Association Committee met in December 2020. Regular subcommittee meetings were held throughout the period. The Stabilisation and Association Parliamentary Committee met in May 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 17 June 2021.

**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 July 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.

Montenegro is currently benefitting from EU financial assistance under the Instrument for Pre-accession Assistance (IPA) with an allocation of EUR 279.5 million for the period 2014-2020. This was programmed based on the priorities set out in the Indicative Strategy Paper. However, with the outbreak of the COVID-19 pandemic EUR 53 million was reprogrammed in order to support the authorities' social and economic response to the crisis, with particular emphasis on protecting the most vulnerable in society. This amount includes support for providing the delivery of emergency health supplies, a focused social and health programme, and a Budget Support programme. As part of the wider COVID-19 response, the EU also made available a Macro Financial Assistance scheme of EUR 60 million in highly favourable loans in order to underpin the local economy.

The IPA III Regulation for the 2021-2027 financial period<sup>4</sup> will continue to provide financial support to the region and also finance the regional Economic Investment Plan (EIP) for the Western Balkans. The EIP, accompanied by the Green Agenda for the Western Balkans, was agreed by the Commission and the governments of the region in October 2020 and aims to spur the long-term economic recovery of the region, support a green and digital transition, and foster regional integration and convergence with the European Union.

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 candidate countries and potential candidates as well as in transnational cooperation programmes with Member States under the European Regional Development Fund and the IPA Adriatic cross-border programme.

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

Montenegro received 48,000 doses of Astra Zeneca vaccine through the global COVAX vaccine sharing mechanism as a self-financing partner. Under the EU's scheme to share vaccines with the Western Balkans (via Austria), Montenegro received over 42,000 Pfizer/BioNTech doses between May-August 2021. The cost of this scheme was covered by a specific IPA grant amounting to EUR 70 million for the Western Balkan region.

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<sup>4</sup> Official Journal L 330, 20.9.2021

**STATISTICAL DATA (as of 09.09.2021)**
**Montenegro**

<b>Basic data</b>	Note	2008	2015	2016	2017	2018	2019
Population (thousand)		616 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	13 812 w	:

<b>National accounts</b>	Note	2008	2015	2016	2017	2018	2019
Gross domestic product (GDP) (million euro)		3 103	3 655	3 954	4 299	4 663	4 951
GDP (euro per capita)		5 030	5 870	6 350	6 910	7 490	7 960
GDP per capita (in purchasing power standards (PPS))		10 920	12 280	13 000	13 770	14 890	16 020
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		42.4	42.7	44.8	46.1	48.3	50.2
Real GDP growth rate: change on previous year of GDP volume (%)		7.2	3.4	2.9	4.7	5.1	:
Employment growth (national accounts data), relative to the previous year (%)		:	c	c	:	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	c	c	:	:	:
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)		:	c	c	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		9.3	9.7	9.0	8.4	8.2	7.9
Industry (%)		14.1	12.8	12.2	11.3	12.5	11.9
Construction (%)		7.9	4.5	6.7	6.9	7.0	7.9
Services (%)		68.6 s	72.9 s	72.0 s	73.5 s	72.4 s	72.2 s
Final consumption expenditure, as a share of GDP (%)		112.1	98.4	96.4	93.2	91.9	89.2
Gross fixed capital formation, as a share of GDP (%)		39.2	20.1	23.2	26.9	29.2	27.3
Changes in inventories, as a share of GDP (%)		2.0	- 0.1	2.9	3.3	2.7	4.6
Exports of goods and services, relative to GDP (%)		39.5	42.1	40.5	41.1	42.9	43.7
Imports of goods and services, relative to GDP (%)		92.8	60.6	62.9	64.5	66.7	64.8
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

<b>Business</b>	Note	2008	2015	2016	2017	2018	2019
Industrial production volume index (2015 = 100)		142.3	100.4	97.0	92.9	113.7	106.7
Number of active enterprises (number)		:	:	:	:	:	:
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	14.9 w	13.1 w	7.1 w	11.2 w	11.2 w

Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	7.6 w	6.1 w	5.4 w	4.8 w	3.3 w
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		:	:	:	:	:	:
Value added by SMEs (in the non-financial business economy) (EUR million)		:	:	:	:	:	:
Total value added (in the non-financial business economy) (EUR million)	1)		1 212 w	1 336 w	1 530 w	1 780 w	:
<b>Inflation rate and house prices</b>							
	Note		2008	2015	2016	2017	2018
Consumer price index (CPI), change relative to the previous year (%)		:	:	1.4 w	0.1 w	2.8 w	2.9 w
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:
<b>Balance of payments</b>							
	Note		2008	2015	2016	2017	2018
Balance of payments: current account total (million euro)	2)	-	1 535.2 w	- 402.0	- 642.0	- 692.0	- 793.0
Balance of payments current account: trade balance (million euro)	2)	-	2 025.3 w	- 1 463.0	- 1 658.0	- 1 860.0	- 2 050.0
Balance of payments current account: net services (million euro)	2)		371.2 w	789.0	771.0	852.0	935.0
Balance of payments current account: net balance for primary income (million euro)	2)		45.8 w	79.0	34.0	89.0	55.0
Balance of payments current account: net balance for secondary income (million euro)	2)		73.1 w	193.0	213.0	229.0	265.0
Net balance for primary and secondary income: of which government transfers (million euro)		:	:	5.0	26.0	22.0	34.0
**3 year backward moving average of the current account balance relative to GDP (%)		:	:	- 11.6	- 13.2	- 14.4	- 16.4
**Five year change in share of world exports of goods and services (%)		:	:	:	:	:	19.3
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)			582.0 w	619.3 w	371.6 w	484.3 w	322.5 w
Foreign direct investment (FDI) abroad (million euro)			73.7 w	11.0	- 167.0	10.0	92.0
of which FDI of the reporting economy in the EU-27 countries (million euro)		:	:	9.0 w	- 4.6 w	- 4.6 w	78.0
Foreign direct investment (FDI) in the reporting economy (million euro)			655.7 w	630.3 w	204.5 w	494.4 w	414.8 w
of which FDI of the EU-27 countries in the reporting economy (million euro)		:	:	393.2 w	- 44.0 w	161.4 w	19.0
**Net international investment position, relative to GDP (%)		:	:	:	- 177.0 w	- 169.5 w	- 168.6 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		:	:	5.3 s	4.8 s	4.7 s	4.9 s
<b>Public finance</b>							
	Note		2008	2015	2016	2017	2018
General government deficit / surplus, relative to GDP (%)		-	0.5 w	- 7.3 w	- 2.8 w	- 5.7 w	- 4.6 w
General government gross debt relative to GDP (%)			28.8 w	66.2 w	64.4 w	64.2 w	70.1 ew
Total government revenues, as a percentage of GDP (%)			50.1 w	41.7 w	42.6 w	41.5 w	42.2 w
Total government expenditure, as a percentage of GDP (%)			50.5 w	50.0 w	46.2 w	46.8 w	46.2 w
<b>Financial indicators</b>							
	Note		2008	2015	2016	2017	2018
Gross external debt of the whole economy, relative to GDP (%)		:	:	:	162.6 s	160.6 s	164.7 s
Gross external debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:

Money supply: M1 (banknotes, coins, overnight deposits, million euro)	3)	512.4 w	:	:	:	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	4)	1 208.5 w	:	:	:	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)	5)	2 338.6 w	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)	6)	2 754.3 w	1 955.7 w	2 078.4 w	2 291.9 w	2 519.0 w	2 714.6 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 (%)	7)	9.40 w	8.53 w	7.45 w	6.81 w	6.36 w	6.01 w
Deposit interest rate (one year), per annum (%)	7)	4.10 w	1.23 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	1 w	1 w
Trade-weighted effective exchange rate index, 42 countries (2010 = 100)		:	:	:	:	:	:
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2010 = 100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		313.0 w	624.0 w	752.9 w	847.2 w	1 049.8 w	1 366.8 w
<b>External trade in goods</b>	Note	2008	2015	2016	2017	2018	2019
Value of imports: all goods, all partners (million euro)		2 530	1 842	2 062	2 304	2 554	2 601
Value of exports: all goods, all partners (million euro)		416	317	326	372	400	416
Trade balance: all goods, all partners (million euro)		- 2 114	- 1 524	- 1 736	- 1 932	- 2 154	- 2 185
Terms of trade (export price index / import price index * 100) (number)		:	100.0 sw	98.0 sw	103.3 sw	100.7 sw	99.1 sw
Share of exports to EU-27 countries in value of total exports (%)		62.4 s	33.9 s	36.6 s	33.3 s	43.1 s	37.0 s
Share of imports from EU-27 countries in value of total imports (%)		46.2 s	40.6 s	47.4 s	46.5 s	47.1 s	47.0 s
<b>Demography</b>	Note	2008	2015	2016	2017	2018	2019
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		4.1	1.7	1.8	1.5	1.2	1.0
Infant mortality rate deaths of children under one year of age (per thousand live births)		7.5	2.2	3.4	1.3	1.7	2.4
Life expectancy at birth: male (years)		72.6	74.4	74.1	73.9	74.5	74.0
Life expectancy at birth: female (years)		77.8	78.6	78.9	79.2	79.3	79.5
<b>Labour market</b>	Note	2008	2015	2016	2017	2018	2019
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		67.2 w	68.5	69.1	69.3	70.5	71.8
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		56.1 w	56.7	57.1	58.2	59.8	60.8
Male employment rate for persons aged 20–64 (%)		64.6 w	61.9	63.0	65.2	66.7	67.5
Female employment rate for persons aged 20–64 (%)		47.8 w	51.6	51.3	51.4	52.9	54.2



Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		34.2 w	40.0	41.2	43.7	46.6	50.1
Employment by main sectors							
Agriculture, forestry and fisheries (%)		:	7.7 s	7.8 s	7.9 s	8.0 s	7.1 s
Industry (%)		:	10.9 s	9.9 s	9.5 s	9.9 s	9.5 s
Construction (%)		:	6.6 s	7.7 s	7.6 s	9.0 s	9.9 s
Services (%)		:	73.9 s	73.8 s	74.1 s	72.5 s	73.1 s
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	8)	37.0 w	32.4 w	31.2 w	32.6 w	31.7 w	29.3 w
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	9) 10)	43.5 w	47.2 w	47.5 w	45.7 w	63.9 bw	66.5 w
Unemployment rate: proportion of the labour force that is unemployed (%)		16.8 w	17.6	17.8	16.1	15.2	15.2
Male unemployment rate (%)		15.9 w	17.8	18.3	15.4	15.3	14.7
Female unemployment rate (%)		17.9 w	17.3	17.1	17.0	15.1	15.7
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		30.5 w	37.6	35.9	31.7	29.4	25.2
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		13.3 w	13.5	13.4	12.5	11.4	12.0
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)		22.2 w	28.7	22.1	21.7	21.0	26.9
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		6.5 w	9.4	11.5	10.7	10.0	11.0
<b>Social cohesion</b>	Note	2008	2015	2016	2017	2018	2019
Average nominal monthly wages and salaries (national currency)		338 w	480 w	499 w	510 w	511 w	515 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		96 w	96 w	100 w	100 w	98 w	98 w
GINI coefficient		:	37	37	37	35	34
Poverty gap		:	36.6	35.6	34.0	35.3	33.1
*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 (%)		8.6 w	5.7	5.5	5.4	4.6	5.0
<b>Standard of living</b>	Note	2008	2015	2016	2017	2018	2019
Number of passenger cars relative to population size (number per thousand population)		304.3 sw	282.8 sw	296.9 sw	310.5 sw	331.7 sw	350.3 sw
Number of mobile phone subscriptions relative to population size (number per thousand population)		1 611.5 w	1 620.1 w	1 632.5 w	1 636.7 w	1 822.8 w	1 850.9 w
Mobile broadband penetration (per 100 inhabitants)		1.3 w	8.6 w	8.9 w	10.5 w	8.8 w	8.0 w
Fixed broadband penetration (per 100 inhabitants)		5 w	18 w	19 w	22 w	25 w	29 w
<b>Infrastructure</b>	Note	2008	2015	2016	2017	2018	2019

Density of railway network (lines in operation per thousand km <sup>2</sup> )		18.1 sw	18.1 sw	18.1 sw	18.1 sw	18.1 sw	:
Length of motorways (kilometres)		0 zw	0 zw	0 zw	0 zw	0 zw	0 zw
<b>Innovation and research</b>	Note	2008	2015	2016	2017	2018	2019
Public expenditure on education relative to GDP (%)		:	:	:	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)		1.20 sw	0.37	0.32	0.35	0.50	:
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	:	:	:	:
Percentage of households who have internet access at home (%)		:	67.5 ew	69.8 ew	71.0	72.0	74.0
<b>Environment</b>	Note	2008	2015	2016	2017	2018	2019
*Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)		95.2 w	65.7 w	62.3 w	64.8 w	70.0 w	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		357.3	278.8	263.1	263.3	259.5	:
Electricity generated from renewable sources relative to gross electricity consumption (%)		38.3	49.6	51.0	50.1	52.4	52.7
Road share of inland freight transport (based on tonne-km) (%)	11)	43.0 w	80.8 w	58.5 w	39.0 w	55.7 w	45.4 w
<b>Energy</b>	Note	2008	2015	2016	2017	2018	2019
Primary production of all energy products (thousand TOE)		669	705	662	624	728	735
Primary production of crude oil (thousand TOE)		0	0	0	0	0	0
Primary production of solid fuels (thousand TOE)		383	390	317	335	362	396
Primary production of gas (thousand TOE)		0	0	0	0	0	0
Net imports of all energy products (thousand TOE)		570 s	306 s	342 s	420 s	334 s	365 s
Gross inland energy consumption (thousand TOE)		1 233	1 019	990	1 037	1 074	1 112
Gross electricity generation (GWh)		2 828	3 003	3 141	2 483	3 811	3 431
<b>Agriculture</b>	Note	2008	2015	2016	2017	2018	2019
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)		221.7	231.4	255.9 p	256.4 p	256.8 p	257.5 p
Livestock numbers: live bovine animals (thousand heads, end of period)	12)	106.4 w	92.0	89.0 p	87.0 p	83.3 p	81.4 p
Livestock numbers: live swine (thousand heads, end of period)	12)	10.0 w	25.0	55.0 p	25.0 p	23.6 p	23.0 p
Livestock numbers: live sheep and live goats (thousand heads, end of period)		:	225.0 s	223.0 ps	218.0 ps	216.0 ps	210.8 ps
Raw milk available on farms (thousand tonnes)	13)	160.0 w	183.1	180.6 p	181.4 p	181.5 p	178.0 p
Harvested crop production: cereals (including rice) (thousand tonnes)		4.0	7.1	7.7 p	7.9 p	8.0 p	7.6 p
Harvested crop production: sugar beet (thousand tonnes)		0.0	0.0	0.0	0.0	0.0	0.0

Source: Eurostat and the statistical authorities in Montenegro

: = not available

b = break in series

c = confidential value

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 compiled according to NACE Rev. 1.1.
- 2) Data are in accordance with the IMF Balance of Payments Manual, fifth edition.
- 3) End of year (31 December). National definition of M0, comprised of bank deposits with the CBM (settlement account and reserve requirement account) and the estimated amount of cash in circulation.
- 4) End of year (31 December). National definition of M11, comprised of bank deposits with the CBM (settlement account and reserve requirement account) and the estimated amount of cash in circulation, demand deposits by the non-banking sector held with banks and the CBM, in EUR and other currencies, plus the Central Government's demand deposits in EUR and other currencies.
- 5) End of year (31 December). National definition of M21, comprised of bank deposits with the CBM (settlement account and reserve requirement account) and the estimated amount of cash in circulation, demand deposits by the non-banking sector held with banks and the CBM, in EUR and other currencies, plus the Central Government's demand deposits in EUR and other currencies, plus the non-banking sector's time deposits with banks, in EUR and other currencies, plus the Central Government's time deposits in EUR and other currencies.
- 6) Loans include total banks' loans granted to non MFI residents and other claims (factoring and forfeiting, claims on outstanding bills of acceptance, guarantees and bills of exchange).
- 7) Weighted average effective interest rate, outstanding amounts, annual.
- 8) Data refer to number of employees in the public sector as a share of the total number of persons employed.
- 9) Data refer to number of employees in the private sector as a share of the total number of persons employed. Comprises data of private companies or enterprises, entrepreneurs, private households and NGO.
- 10) Break in series as previously only employees were answering this question; Since 2018 all employed persons are giving answer to this question.
- 11) Total freight traffic (national territory and international transport).
- 12) Livestock held by enterprises, cooperatives and households.
- 13) In million litres. Net quantity. From enterprises, cooperatives and households.