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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

ON MONTENEGRO'S PROGRESS IN THE IMPLEMENTATION OF REFORMS

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1. INTRODUCTION

In its Opinion¹ on Montenegro's application for membership, the European Commission identified seven key priorities² which had to be fulfilled for the Commission to recommend the opening of accession negotiations with Montenegro. In its 2011 Enlargement Strategy Paper³, based on the analysis in the 2011 Progress Report⁴, the Commission concluded that Montenegro has successfully addressed the key priorities set out in 2010 by the EU as a pre-requisite to opening accession negotiations. The December 2011 European Council welcomed the Commission's assessment on the good progress made by Montenegro, which has achieved overall satisfactory results. With a view to opening accession negotiations with Montenegro in June 2012, the European Council tasked the Council to examine Montenegro's progress in the implementation of reforms, with particular focus on the area of rule of law and fundamental rights, especially the fight against corruption and organised crime, on the basis of a report to be presented by the Commission in the first half of 2012.

Following the European Council conclusions of December 2011, the Commission has initiated the screening process for the chapters on judiciary and fundamental rights as well as on justice, freedom and security. In light of the new approach for both chapters, this will allow the issues identified under both chapters to be addressed at an early stage of the accession negotiations.

This report assesses the additional progress made by Montenegro in the period from 1 September 2011 in the implementation of reforms linked to the key priorities. During this period, Montenegro achieved further progress in strengthening the work of the parliament, the professionalism and de-politicisation of public administration, media freedom and cooperation with the civil society. The process of constitutional revision aiming at providing solid guarantees for the independence of the judiciary is ongoing. Montenegro has further developed its track record in combating corruption and organised crime. Implementation of recently adopted anti-discrimination and anti-corruption measures has started and further progress has been made with respect to displaced persons and Roma, Ashkali and Egyptians. Montenegro continued to play a constructive role in the region and to implement smoothly its Stabilisation and Association Agreement. Montenegro will need to sustain its efforts, however, to further develop a track record in the area of rule of law, in particular with respect to high-level corruption and organised crime cases, and to ensure a safe environment for investigative journalism.

¹ COM(2010) 670 final.

² The key priorities concern the following areas: legislative framework for elections and Parliament's legislative and oversight role; public administration reform; judicial reform; fight against corruption; fight against organised crime; media freedom and cooperation with civil society; implementation of the anti-discrimination framework and the situation of displaced persons. For the full text of the key priorities, please see COM (2010) 670.

³ COM(2011) 666 final.

⁴ SEC(2011) 1204 final.

The assessment in this report is based on information gathered and analysed by the Commission, including input provided by Montenegro, the findings of peer-assessment missions as well as information shared by Member States, international and civil society organisations in their regular contacts with the Commission.

2. IMPLEMENTATION OF REFORMS

Parliament

Amendments to the Law on the election of municipal councillors and members of parliament were adopted in September 2011, thus harmonising the *legislative framework for elections* with the Constitution and addressing the main OSCE/ODIHR and Venice Commission recommendations on elections. Implementation of the electoral legislation has started. Vacant positions of members of Parliament have started to be filled according to the order in electoral lists. The president and nine members of the State Election Commission were appointed by the Parliament in December 2011. Recent legislation needs to be completed as regards a number of pending OSCE/ODHIR and Venice Commission recommendations, in particular those related to gender equality, the dissolution of coalitions and their funding obligations, and the extension of the mandate of the Central Election Commission to municipal elections.

The Parliament has continued its intensive legislative activity, including in a number of areas related to European integration such as prevention of money laundering and terrorism financing, and audit of EU funds. The role and the capacity of the Parliament in regulatory impact assessment and monitoring the process of alignment with EU legislation need to be further strengthened.

Parliament's oversight role has been further strengthened, notably through a steady increase in the number of parliamentary questions, control and consultative hearings with high-level state officials and discussions of reports submitted by various institutions. As regards parliamentary oversight in the area of anti-corruption, in February 2012 the Parliament decided, for the first time, to open a parliamentary investigation and establish a committee of inquiry in charge of collecting information and preparing a report on alleged corruption in the privatisation of the company 'Telekom Crne Gore'.

The Parliament's administrative capacity has been further strengthened, notably through increasing staff numbers from 100 in October 2011 to 129 in March 2012. However, continued efforts are needed to further enhance the Parliament's administrative and expert capacity.

There has been further progress with regard to transparency in the work of the Parliament. In December 2011, the Parliament started publishing the voting record of individual MPs on its website. Further measures have been taken to improve interaction with civil society and the public. The new law on lobbying adopted in November 2011 *inter alia* regulates the relationship of the Parliament with lobbyists.

Overall, further progress has been made in this field. Implementation of recently adopted legislation on elections has started. Parliament's legislative and oversight role has been further strengthened, including on rule of law matters. The transparency of the work of the Parliament and cooperation with civil society have improved. The administrative and expert capacity of the Parliament has been reinforced in terms of staff and training. These efforts need to continue with a view to consolidating the Parliament's legislative role, notably with regard to thorough compatibility checks of new legislation with the EU *acquis*. Parliament's capacity for oversight and control of the executive still needs to be further strengthened.

Public administration

At the government's initiative, a comprehensive reform of the public sector has been launched to reorganise and rationalise the public administration, with the support of the EU and other international organisations. A plan to reorganise the public administration was endorsed by the government in April 2012.

As part of the implementation of this reform, additional secondary legislation was adopted aiming at streamlining the structures of public administration, increasing its efficiency, strengthening cooperation with non governmental organisations and at introducing public hearings in law drafting. Since January 2012 impact assessments have to be carried out for new legislation, and submitted to the government together with the opinion of the Ministry of Finance on the budgetary impact of the implementation of the new law. A total of 90 opinions on new legislation have been issued since then.

The competences of the State Audit Office (SAI) were extended to include the auditing of political party financing through the adoption of amendments to the Law on Political Party Financing; the capacity and independence of the SAI need to be reinforced notably in this regard. A strategy for the development of this institution was adopted by the government in April 2012.

Overall, Montenegro has made some further progress to address the challenges of the public administration reform. However, the comprehensive plan on the reorganisation of the public administration needs to be finalised. The legal framework needs to be further improved, especially in the area of recruitment procedures for civil servants, strengthening of the institutions in charge of the overall management of the civil service, as well as the administrative procedures; implementation of recent legislation needs to be enhanced. The public administration reform needs to continue, taking due account of the need to strengthen areas related to European integration, and the financial sustainability of the reform itself. Mechanisms for the implementation and monitoring of the Public Administration Reform Strategy have to be put in place.

Judicial system

With regard to the *independence and impartiality* of the judiciary, procedures are ongoing for the adoption of constitutional amendments aimed at further enhancing judicial independence, in particular through de-politicised and merit-based appointments of the Judicial and Prosecutorial Councils' members and of state prosecutors. Draft constitutional amendments were adopted by the Parliament with the required 2/3 majority on 28 September 2011. Following consultations held between the Government and the opposition parties, the Parliamentary Committee for Legal and Constitutional affairs adopted in March 2012 a set of constitutional amendments, to be submitted to a plenary vote. The initiated constitutional reform should bring the judicial system in line with European standards, in particular by safeguarding against political influence in appointments and strengthening judicial independence, notably through the replacement of MPs who were members of the Judicial Council by renowned lawyers and a new appointment procedure of the Supreme Court President by the Judicial Council. Constitutional amendments enhancing the capacity and the independence of the Constitutional Court, and setting out clear grounds for dismissal of judges and prosecutors should also be adopted.

Implementation of the legislation on courts, the Judicial Council and the State prosecutor's office, amended last July to strengthen judicial accountability and independence, continued. In January, the Supreme Court established the Commission for the appointment of members

of the Judicial Council from among judges. Based on the list of candidates compiled by this Commission, in March the Conference of Judges elected the new members of the Judicial Council from the ranks of judges. The Judicial Council and the Prosecutorial Council adopted their Rules of Procedure defining their organisational structure, functioning and decision-making procedures. In September 2011, the Judicial Council established the Commission for conducting the written tests for the first-time appointment of judges and the Commission for the control of courts. The first written tests for judges were held in February 2012 and four judges have been appointed so far, in accordance with the new criteria. However, vacancies continue to be published for specific courts and a country-wide single recruitment system on the basis of transparent and objective criteria remains to be established for judges and prosecutors. The functioning of the Judicial and Prosecutorial Councils is hampered by their insufficient administrative capacity and budget allocations.

Random allocation of cases continues to be ensured in courts with the aid of an IT system, with the exception of smaller courts with limited staff.

Concerning accountability of the judiciary, all decisions of the Administrative Court and the Appellate Court became publicly accessible. Commissions for monitoring compliance with the Code of Ethics of judges and prosecutors, respectively, have been appointed in October 2011. The Commission for monitoring compliance with the Code of Ethics of judges acted upon two complaints in the reference period, both of which were rejected. Members of the Disciplinary Commission were appointed, together with two staff to assist the verification of complaints concerning alleged cases of corruption in the judiciary. A disciplinary procedure against one judge has been launched in January 2012. No disciplinary procedure against a prosecutor has taken place so far. The double competence of the Disciplinary Commission in investigating and deciding on disciplinary proceedings needs to be revised. Procedures for removing functional immunity need to be strengthened to ensure full accountability of judges and prosecutors under criminal law. A reliable system of professional evaluation of judges and prosecutors still needs to be established.

Regarding the *efficiency* of the judiciary, Montenegro has taken further measures to reduce the backlog of cases. With around 11,500 unresolved cases from previous years in all courts in Montenegro at the end of 2011, the backlog was approximately 4% lower in 2011 than in 2010. Four further notaries were appointed in January 2012, in addition to the 34 notaries appointed last July. Following the entry into force of the Law on enforcement and security of claims, transferring powers for civil enforcement to the bailiffs, the Parliament enacted in December 2011 the Law on public bailiffs. Nonetheless, enforcement of civil decisions remains weak, bailiffs are yet to be recruited and the functioning of the newly established bailiffs system still needs to be assessed.

With a view to increasing the efficiency of the overall judicial system, the Judicial Council initiated the establishment of special units of judges dealing with juvenile justice at the High Courts of Podgorica and Bijelo Polje. A Juvenile Justice Code was enacted by the Parliament in December 2011. The Action Plan for the Implementation of the Judicial Reform Strategy for the period 2007-2012 was revised in December 2011. Initial steps have been taken with regard to the rationalisation of the court network. As regards access to justice, following the entry into force of the Law on free legal aid in January 2012, three implementing acts have been adopted and free legal aid offices were opened in all basic courts. However, the implementation of the law is hampered by the insufficient budget allocations for these offices. The independence and the administrative and financial self-sustainability of the Judicial Training Centre remains to be strengthened and initial training with set curricula for all members of the judiciary to be established. The quality of judicial statistics needs to be

improved in line with European standards and on the basis of reliable indicators, such as productivity and clearance rates. A system to clearly monitor the length of trials still needs to be introduced. The legal remedies available in case of violation of the right to a fair trial have limited effect and need to be revised in line with the right to an effective remedy stemming from Article 13 of the European Convention on Human Rights.

Overall, further progress has been made in the area of judicial reform. Implementation of recently adopted legislation has started and the process of constitutional reform has advanced. Progress has been made with regard to the publication of court rulings. The case backlog has been further reduced and a new enforcement system has been introduced to improve efficiency. However, enforcement of civil decisions remains weak and the court network still needs to be rationalised. A country-wide single recruitment system for first-time judicial appointments is yet to be established. The reliability of judicial statistics needs to be improved and a system to monitor the length of trials is to be set up. Judicial training needs to be streamlined and strengthened.

Anti-corruption policy

The implementation of the government's strategy for the fight against corruption and organised crime and its revised 2011-2012 Action Plan has further advanced. The National Commission responsible for monitoring the implementation of the Action Plan adopted its third report in April 2012, concluding that the implementation of the majority of the measures due in the second half of 2011 has started. The overall institutional framework for monitoring the implementation of the Action Plan is functioning well.

Montenegro has made additional efforts to further strengthen its anti-corruption legal framework, with a view to ensuring alignment with the relevant EU *acquis* and international standards. The amendments to the Labour Law adopted by Parliament in November 2011 complete the legal framework for whistleblowers with provisions ensuring their protection in the private sector. Amendments to the Law on free access to information were adopted by the Government in April 2012. Amendments to the Law on political party financing, enacted in December 2011 regulate the supervisory institutional framework, in-kind contributions and the ceiling of membership fees, fixing an upper limit of 10 % of a member's annual income. The State Audit Institution (SAI) is now responsible for auditing political parties' annual balance sheets and reports on election campaign costs, while the State Election Commission is in charge of monitoring the implementation of other aspects of the law. However, the administrative and professional capacity of the State Election Commission has to be strengthened to ensure a fully effective independent oversight. The mechanisms for controlling funding of political parties and electoral campaigns, and the enforcement of sanctions need to be reinforced and further specified in the legal framework. The sanctioning system remains insufficiently dissuasive and undifferentiated, while reporting and accounting obligations for political parties need to be further strengthened.

Implementation of recently adopted legislation in the area of conflict of interest and public procurement has started. Following the entry into force of the amended law on conflict of interest prevention, all 36 MPs who were also members of management boards of state-owned companies resigned from these positions and all 16 MPs who also held executive positions (including 2 mayors) have resigned from one of their functions. Members of the Public Procurement Commission were appointed in February 2012 and a budget was allocated for its functioning. In December 2011, the Government adopted a Strategy and an Action Plan for the development of the Public Procurement System, and a decision to set up a coordination body for monitoring their implementation. However, no notifications have been sent so far

from the Public Procurement Commission to the prosecution and the control system needs to be strengthened.

Further steps have been taken as regards the prevention of corruption. In December 2011, the Directorate for Anti-Corruption Initiatives (DACI) was transferred under the authority of the Ministry of Justice to ensure better coordination of anti-corruption activities. During the reference period, the DACI received 70 complaints concerning allegations of corruption in local self-government, public administration, judiciary, health and the education sectors, of which it submitted 27 reports on alleged corruption cases to the police. The inflow of complaints also results from a number of awareness-raising campaigns conducted by DACI for reporting corruption and the protection of whistleblowers. Based on the risk assessment of areas vulnerable to corruption, adopted by the Government last July, the relevant authorities have submitted reports on the implementation of recommendations given in the assessment. Measures have been taken to prevent corruption in the judiciary. The Judicial Council decided to allocate a special allowance to those judges working on organised crime, corruption, terrorism and war crimes cases. Continuous trainings have been provided to judges and prosecutors in the area of anti-corruption, in particular to facilitate implementation of the new Criminal Procedure Code. Civil society organisations continue to actively contribute to enhancing the strategic framework and providing key evidence for initiating corruption cases. However, asset declarations by judges and prosecutors are not yet cross-checked against other data and measures to prevent corruption in the judiciary are to be further strengthened. DACI's competences need to be upgraded and its capacities reinforced to coordinate corruption prevention activities and to monitor the implementation of the government's Action Plan for the fight against corruption and organised crime.

Further progress has been made in the suppression of corruption. The full entry into force of the new Criminal Procedure Code (CPC) in September 2011 has led to a significant acceleration of the criminal investigation procedure and reduced risk of information leakage. The institutional and operational capacity of the prosecutors, judges and police to fight against corruption has been strengthened through substantial training support and additional equipment. The use of special investigative measures is more systematic as a result of the enhanced administrative and technical capacity of the Special Checks Unit. Nine representatives of the police administration, the Office for prevention of money laundering and terrorism financing, the tax and customs administrations were appointed to the special investigation team, which became operational in October 2011. The team has been provided with additional financial resources, however its capacities need to be further strengthened, in particular through access to relevant information databases.

Montenegro has further developed its track record of investigations, prosecutions and convictions in corruption cases. High-level corruption cases remain a matter of concern, however. In the reference period, four employees of the public property administration of Ulcinj were sentenced by a second instance court to imprisonment for abuse of official position, and one customs officer for bribery. First instance verdicts have been issued in December 2011, January and March 2012 against sixteen persons, including two municipal officials sentenced to imprisonment, the managers of a public company and a judge. Court hearings are ongoing in the high-level corruption case 'Zavala', involving the former Mayor of Budva, his deputy and a Member of Parliament, and two other cases against 23 persons accused of abuse of official position and bribery. During the reporting period, two police officers have been indicted for bribery. Investigations are ongoing against the former Mayor of Ulcinj, the President and a judge of a Basic Court, the former and current directors of a public company in Budva, and three employees of the Ministry of Interior.

However, the track record in combating corruption needs to be systematically developed, in particular in terms of investigations and final convictions for high-level corruption cases. The fact that all high-level corruption cases have been initiated on the basis of evidence provided by a third party is a matter of concern. The number of corruption cases in which seizure of assets was ordered is still very low. Provisions of the CPC and the Criminal Code on confiscation and extended confiscation of criminal assets have not been used so far. The procedures for seizure, confiscation and management of proceeds of crime still need to be regulated. Inter-agency cooperation has improved to a certain extent, but it is to be further enhanced, in particular to ensure the prosecutors' leading role in investigations. Prosecutors' lack of access to relevant databases and lack of sufficient capacity hampers the effective implementation of the CPC. The administrative capacity of the Special Prosecution Office for fighting organised crime, corruption, financing of terrorism and war crimes in particular needs to be strengthened. Despite its strengthened administrative capacity, the Commission for the prevention of conflict of interest still lacks the capacity to control the accuracy of civil servants' asset declarations and declarations of interest to identify illicit enrichment as it has no investigative powers and access to relevant databases. The independence of the judiciary remains a matter of concern affecting the determination to combat corruption. Corruption is still an issue of serious concern.

Overall, progress has been made in the area of anti-corruption. Implementation of recently-adopted legislation in the key areas of political party financing, prevention of conflict of interest and public procurement has started. Their provisions on control mechanisms need to be further strengthened. Further steps have been taken to develop the track record in the fight against corruption, as shown by a number of new investigations of high-level corruption cases. Nonetheless, the number of final convictions and of corruption cases in which seizure or confiscation of assets were ordered remains low. Inter-agency cooperation, in particular between police and prosecutors, needs to be further enhanced and the leading role of the prosecution strengthened, in line with the new CPC.

Police cooperation and the fight against organised crime

Regional and international police cooperation on organised crime has improved. A number of police operations have been conducted in cooperation with the authorities of various EU Member States, countries of the region, Interpol and Europol, increasing the number of indictments and arrests. The agreement on extradition between Montenegro and the Former Yugoslav Republic of Macedonia was signed in October 2011. Police authorities from Montenegro and Bosnia and Herzegovina signed a memorandum of cooperation on jointly fighting corruption, organised crime, drug trafficking and terrorism. Two agreements on police cooperation were also signed with Croatia and the former Yugoslav Republic of Macedonia. The ratification of the agreement on reciprocal enforcement of court decisions in criminal matters with Croatia took place in December 2011.

Since September 2011 the new CPC is being implemented by all relevant state bodies. Amendments to the Rulebook on internal organisation and job description of the Police Administration were adopted in November 2011, introducing more specialised organisational units within the Police. An Action Plan for combating organized crime was adopted in January 2012 which introduces operational measures and indicators in line with the priorities identified in the 2011 organized crime threat assessment (OCTA). Since becoming operational in October 2011, the special investigation team has opened financial investigations on three major cases of organised crime and has been provided with additional financial resources. Since December 2011, a coordination body is active for monitoring results in the implementation of the Strategy of Development and Functioning of the Police.

However, relations between the prosecution service and the police within the framework of the new CPC should be better clarified and improved, especially in conducting financial investigations; additional equipments and specialised staff are needed to manage complex cases. Provisions on use of special investigative measures should be revised to extend its time limitations. The Intelligence-led Policing project should be rolled out throughout the country, and the police staff should be trained in parallel. Further financial allocations need to be devoted to increasing investigative capacities and concrete resources – including IT - within departments of the police.

Montenegro has continued to develop its track record of cases dealing with organised crime. Two second instance verdicts have been issued, for cases of drug trafficking and trafficking in human beings. Three first instance verdicts have been issued in two cases concerning production and smuggling of drugs, in September 2011 and in January 2012, respectively, and in a case of money laundering in January 2012. As regards the Saric case, two members of a criminal organisation have been sentenced respectively to 6 and 8 years of prison for drug trafficking and money laundering of more than €12 million. An indictment was raised in December 2011 in the Kalic case, involving three individuals accused of money laundering; the assets seized amount to more than €28 million. Hearings have started in six new cases. Investigations were initiated between the end of 2011 and the first months of 2012 on three cases of drug smuggling and on a case of passport forgery, involving a total of 65 individuals. The value of criminal assets temporarily seized in the country has increased and amounts to over €40 million, according to the estimation of the Public Property Administration which is tasked to manage it. Amendments to the law on management of temporary and permanently seized property were adopted in April 2012. However, the competent agency needs to be further strengthened, particularly with regards to its ability to evaluate and effectively manage temporarily seized and confiscated assets. Secondary legislation to ensure the enforcement of court decisions and procedures for the management of the seized and confiscated property need to be prepared. The overall number of financial investigations and seized assets remains low, due to the very weak administrative capacities in this field.

The Law on prevention of money laundering and terrorist financing was amended in February 2012 to align it with the EU acquis. Cooperation and exchange of information was enhanced between the Ministry of Finance, the Administration for Prevention of Money Laundering and Terrorism Financing (APMLTF), the Central Bank, the Securities Commission and the Insurance Supervision Agency in December 2011. A total of 107 cases have been opened by the APMLTF, which took part in a financial investigation led by the Special Prosecution Office for fighting organised crime, corruption, financing of terrorism and war crimes. However, police expertise in this area needs to be consolidated, as well as the track record of proactive financial investigations. The capacities of the AMLTF to supervise the banking system should be strengthened.

Overall, further progress can be reported in the fight against organised crime. The track record has continued to develop. International cooperation has improved and various police operations resulted in the seizure of drugs and criminal assets; however, drug trafficking remains a major concern since the country is a transit area on the smuggling route to and from the EU. The legal framework has continued to be strengthened, but its implementation would require continued attention. The investigative capacities of the law enforcement bodies and of the prosecution need to be further strengthened, particularly in the field of financial investigations. Interagency cooperation needs to be enhanced.

Freedom of expression and freedom of assembly and association

The decriminalisation of defamation has contributed to a decrease in the number of lawsuits against the media. The backlog of libel and defamation cases in the courts is being gradually reduced, in accordance with the Supreme Court guidelines regulating the level of pecuniary compensation in defamation cases against media. These guidelines are based on the case law of the European Court of Human Rights. Trainings for judges and prosecutors have been organised by the Judicial Training Centre, with special emphasis on the right to freedom of expression stemming from Article 10 of the European Convention on Human Rights. High-level state officials have continued to promote a more favourable and safer media environment, including by condemning attacks and encouraging investigations into cases of violence against media.

However, in some old cases of defamation, fines not paid have been converted to custodial sentences. These cases need to be brought in line with ECtHR case-law in particular to ensure no prison sentence is imposed in case of unpaid fines. Further progress needs to be made on certain recent and earlier cases of violence against media, which still have to be thoroughly investigated and prosecuted, including a physical attack on an investigative journalist in March 2012.

A media self-regulatory body was set up in March 2012, gathering part of some mainstream and local media outlets; a parallel one was recently established, representing some important national media. Additional staff has been hired to increase the monitoring capacities of the Electronic Media Agency. The public broadcaster is undergoing a structural reform, aimed at making it more modern and self-sustainable. The lack of financial sustainability and operational resources could undermine the functioning of the media, however, as well as of the audiovisual self-regulators. Recent legislative amendments to the Law on electronic media put at risk the independence of the audiovisual regulator. Its lack of resources to monitor media throughout the country is cause for concern. Professionalism and independence of the public broadcaster are not yet fully achieved.

Cooperation with civil society has continued to be strengthened. Two decrees enhancing the role of civil society were adopted in February 2012, on cooperation between state administration authorities and non governmental organizations (NGOs), and on conducting public debates on draft legislation.

The Council for cooperation with the NGOs is now fully operational and meets regularly. It has been involved in drafting relevant legislation, including in preparing amendments to the Law on games of chance which provides for financial support to NGOs. Representatives of civil society organisations are currently involved in the activities of different state bodies, through their participation in working groups and councils dealing with various policy areas. A public register of NGOs has been updated.

Overall, there has been some progress on enhancing media freedom and good progress on strengthening cooperation with civil society. However, solid implementation of the Supreme Court guidelines regulating the level of pecuniary compensation in defamation cases against media needs to continue, and measures alternative to prison should be found for unpaid fines resulting from previous libel cases. Unresolved cases of violence against media represent a concern. Continuous further efforts are needed to ensure sustainable and long term cooperation between authorities and civil society.

Anti-discrimination policies, displaced persons and Roma, Ashkali and Egyptian persons

The administrative and budgetary capacities of the Ombudsman have been strengthened. Reports have been prepared by the institution, analysing respectively the state of the Police

Administration's premises used for detainees, the protection from discrimination and the situation of child begging. These reports were endorsed between October and November 2011 by the Parliamentary Committee for human rights and freedom, which has become more active in promoting human rights and anti-discrimination. The portfolio of the Deputy Prime Minister and Minister for Justice has been extended to human rights in March 2012.

The Council for Protection against Discrimination is now operational. The fifteen members of this body have been appointed in February 2012, including representatives from the Roma community and one member representing civil society organisations dealing with lesbian, gay, bisexual and transgender (LGBT) rights. Anti-discrimination campaigns and training for civil servants have continued. Authorities have continued to actively promote a positive environment for LGBT rights in the country. A shelter and a support and counselling line for LGBT persons are fully functional.

The capacity of the Ombudsman need to be strengthened in terms of financial and human resources. Implementation of legislation in the field of anti-discrimination is lagging behind; institutional capacities in the field of promotion, monitoring and enforcement of human rights are limited, especially as regards the rights of disabled persons and social and vulnerable persons. LGBT persons are still subject to discrimination and these cases would require a thorough follow-up by the authorities.

Progress has been made guaranteeing the legal status of displaced persons, in particular Roma, Ashkali and Egyptians (RAE), and ensure respect for their rights, have moved forward. Amendments to the Law on Foreigners were passed in November 2011, to postpone the deadline for application for the status of foreigner to December 2012. The number of applications is slowly but steadily increasing: around 48% of displaced persons submitted applications and 29% of them have been granted the status of foreigner in the country. Several measures have been put in place to facilitate the legalisation of status of vulnerable displaced persons. Decisions to change the urban plan of Konik area were adopted in February 2012; they represent the framework for construction of housing for the existing population. Montenegro has taken an active role in the Sarajevo Declaration Process. The temporary decree granting equal economic and social rights to displaced persons has been extended to June 2013. Progress in facilitating civil registration of RAE population, in particular those internally displaced, has continued. The government adopted a strategy for improving their situation for the period 2012-2016 and an action plan for its implementation. RAE persons have received vocational trainings. Registration of displaced persons needs to advance, in particular for vulnerable cases. Further measures are needed to improve the access to economic and social rights of displaced persons and the RAE persons. Roma women experience double discrimination - as members of a minority group and as women.

The Law on social housing should be adopted without delay, as key to further progress on the Konik camp.

Overall, some further progress has been made on anti-discrimination, legalising the status of displaced persons, and ensuring the rights of the RAE persons. Institutional capacities to monitor, promote and enforce human rights in practise should be enhanced, as well as to fight discrimination. The settlement of legal status of displaced persons has to be completed; inclusion policies towards RAE persons should be reinforced.

3. CONCLUSION

Montenegro has made further progress in the implementation of reforms in the areas of rule of law and fundamental rights, including in the fight against corruption and organised crime.

In view of the further progress made, the Commission remains of the view that Montenegro has achieved the necessary degree of compliance with the membership criteria and in particular the Copenhagen political criteria, to start accession negotiations. In light of these considerations and taking into account the Council conclusions of December 2011, the Commission reiterates its recommendation that accession negotiations be opened with Montenegro.

During the accession negotiations' process, the Commission will continue to put particular focus on the area of rule of law and fundamental rights, especially the fight against corruption and organised crime, so as to ensure a solid track record. It will make full use of the tools available at all stages of the accession process. In this respect, the new approach proposed by the Commission and endorsed by the December 2011 European Council as regards the chapters on judiciary and fundamental rights and justice, freedom and security will allow to firmly anchor reforms in this area and ensure the close monitoring of their implementation.