

Montenegro

2013 Progress Report

Conclusions on Montenegro

(extract from the Communication from the Commission to the European Parliament and the Council 'Enlargement Strategy and Main Challenges 2013-2014', COM(2013)700 final)

The opening of EU accession negotiations with Montenegro in June 2012 marked the beginning of a new and intensive phase for Montenegro on its path to the EU. The deep and lasting political reforms necessary to implement the new approach to chapter 23 on judiciary and fundamental rights and chapter 24 on justice, freedom and security will require strong political will and enhanced administrative capacity. The accession process needs to be inclusive, with strong involvement of civil society throughout.

During the reporting period Montenegro focused on the preparation of comprehensive action plans which will guide the country's reform process on the rule of law. In June, the government adopted these action plans, which constitute the opening benchmarks for chapters 23 and 24. Following the adoption of the action plans the Commission in August recommended the opening of these chapters and, in September, the Council invited Montenegro to submit its negotiating positions. Work is proceeding in line with the new approach to these chapters set out in the framework for negotiations with Montenegro.

Screening meetings for all negotiating chapters were completed at the end of June 2013. So far, negotiations on two chapters (science and research; education and culture) have been provisionally closed. Opening benchmarks have been set for six chapters (free movement of goods; right of establishment and freedom to provide services; competition policy; agriculture and rural development; food safety, veterinary and phytosanitary policy; regional policy and coordination of structural instruments).

Public administration reform is a priority to ensure Montenegro has the capacity to apply the *acquis*, to tackle politicisation and increase transparency and professionalism of the civil service. Events over the last months, in particular the alleged use of public funds for party political purposes, have highlighted the importance of strengthening citizens' trust in public institutions. In this context, it is important to ensure that investigations are completed thoroughly and rapidly and that any appropriate action is taken. Adequate follow-up of the work of the parliamentary group on the electoral process is also needed. Montenegro also needs to ensure an adequate follow-up to the long-standing OSCE/ODIHR recommendations on its election legislation and establish a clear, broadly-accepted delineation between public and party interests. Montenegro continues to sufficiently meet the **political criteria** for membership in the EU. Parliamentary and presidential elections of October 2012 and April 2013, respectively, have not altered the strategic priority given by the country to the objective of EU accession. While these elections were qualified by the OSCE/ODIHR as professionally and efficiently administered, some shortcomings were also identified. Non-recognition of presidential election results by the opposition resulted in a two-month boycott of parliament by the largest opposition group. The boycott was ended when a cross-party agreement was reached to form two parliamentary bodies to investigate allegations of abuse of public funds for election purposes and to draft recommendations to improve the electoral process. The parliamentary inquiry committee on the alleged misuse of public funds completed its work in July. The parliament failed to agree on conclusions that would, *inter alia*, establish political responsibility and limited itself to a technical report. Judicial follow-up remains to be ensured.

A working group on building trust in the electoral process has already adopted a draft law on a single voters' list, to replace the law on voters' register, as well as draft amendments to the law on personal identity cards. In the area of rule of law, parliament adopted the long awaited amendments to the constitution on strengthening the independence of the judiciary, which are broadly in line with the recommendations of the Venice Commission.

Montenegro is actively involved in regional and international police and judicial co-operation. While some verdicts related to drug smuggling were issued, only a few cases referred to crimes such as trafficking in human beings and money laundering. Some first-instance convictions in cases of organised crime and corruption have been overturned. Impunity in relation to cases of ill-treatment of detainees remains a serious concern.

Montenegro has taken a leading role in promoting regional cooperation, notably through its proposal for the establishment of the 'Western Balkans Six' initiative.

As regards the International Criminal Court, Montenegro still maintains a 2007 bilateral immunity agreement with the United States, granting exemptions from the jurisdiction of the Court. Montenegro needs to align with the EU position.

Looking ahead, Montenegro needs to ensure the political and judicial follow-up to the alleged misuse of public funds for party political purposes. It also needs to carry through the work of the parliamentary group on the electoral process, by adopting legislative and other measures to broaden political support and enhance public trust in the electoral process and state institutions.

Enhancing public trust in the state is closely linked to further strengthening the rule of law. The effective and timely implementation of Montenegro's action plans in these areas will therefore play a central role. Particular focus should be given to reforms improving the independence, accountability and professionalism of the judiciary, through reinforcing integrity safeguards, as well as merit-based appointments. The implementation of the constitutional amendments will play an important role in this regard. In parallel, Montenegro needs to develop its track record regarding the systematic investigation and prosecution of cases of corruption and organised crime, including high level cases, as well as regarding the imposition of sanctions that are commensurate to the gravity of the crimes committed.

Freedom of expression needs to be strengthened, including by properly investigating all cases of violence and threats against journalists and bringing perpetrators to justice. Increased attention is required to tackle the shortcomings in the protection of human rights by judicial and law enforcement authorities, especially as regards vulnerable groups. Roma face discrimination, especially in terms of social and economic rights, and remain under-represented at political level. Lesbian, gay, bisexual, transgender and intersex (LGBTI) activists are still exposed to discrimination, attacks are rarely reported and penalties still need to be reinforced.

The adoption of the plan for the reorganisation of the public sector and the entry into force of the new law on civil servants and state employees are positive steps. Fair and competitive recruitment of civil servants is a precondition to develop a professional administration. The undated resignation letters are an issue of concern and should be returned to the staff who signed them.

As regards the **economic criteria**, Montenegro has made some further progress towards a functioning market economy. The country should be able to cope with competitive pressures and market forces within the Union over the medium term, provided that it continues to address current weaknesses through appropriate macroeconomic policies and structural reforms.

After entering in recession in 2012, the country came out of recession in 2013. The resilience of tourism and foreign direct investments (FDI) together with an increase of electricity exports supported the recovery, compensating for a weak domestic demand. The current account deficit is declining, but still remains very high. In July, the aluminium producer KAP was put into bankruptcy procedure, which represents a risk to public finances, in view of the considerable size of contingent liabilities. Unemployment remained very high. Credit growth

turned positive after four years of contraction, but the high levels of non-performing loans still weigh on bank capitalisation and hence, on credit supply.

To cope with the existing economic challenges and to reduce external imbalances, Montenegro needs to strengthen competitiveness, by improving productivity and attracting further FDI into more sectors than tourism and real estate. The establishment of a sound business environment continues to be hampered by the weak rule of law and corruption. The high unemployment rate requires bridging the gap between supply and demand of labour skills and allowing more independent wage setting at company level. It also requires the strengthening of the public employment service in order to implement the activation policies and establish an inclusive and efficient labour market. Authorities should consider objectively the viability of the aluminium conglomerate under market conditions and the best possible solution without exacerbating the pressure on public finances. The path of fiscal consolidation should be continued, including efforts to collect tax arrears. The high level of non-performing loans remains a matter of concern and calls for a reinforced banking supervision enforcing adequate provisioning. The informal sector remains an important challenge.

As regards the **ability to take on the obligations of EU membership**, Montenegro is at varying degrees of alignment. Strengthening of administrative capacities is a cross-cutting challenge in many areas. In chapters such as public procurement, company law, intellectual property law, information society and media, taxation, and enterprise and industrial policy, Montenegro is sufficiently advanced for the Commission to have recommended the opening of accession negotiations.

In other areas, such as free movement of goods; right of establishment and freedom to provide services; agriculture and rural development; food safety, veterinary and phytosanitary policy; and regional policy and coordination of structural instruments, opening benchmarks – often including strategies for alignment with the *acquis* – have been set. These benchmarks should now guide Montenegro's work in the coming months. For the competition policy chapter, elaborating a restructuring plan for the aluminium producer KAP is particularly urgent, in order to bring Montenegro in line with its obligations under the Stabilisation and Association Agreement. In the area of environment and climate change, considerable efforts, including more strategic planning, are needed to ensure alignment and implementation of the *acquis*.



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**MONTENEGRO
2013 PROGRESS REPORT**

Accompanying the document

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

Enlargement Strategy and Main Challenges 2013-2014

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1. INTRODUCTION

1.1. Preface

The Commission reports regularly to the Council and Parliament on the progress made by the countries of the Western Balkans region towards European integration, assessing their efforts to comply with the Copenhagen criteria and the conditionality of the Stabilisation and Association Process.

This progress report, which largely follows the same structure as in previous years:

- briefly describes the relations between Montenegro and the European Union;
- analyses the situation in Montenegro in terms of the political criteria for membership;
- analyses the situation in Montenegro on the basis of the economic criteria for membership;
- reviews Montenegro's capacity to take on the obligations of membership, i.e. the *acquis* expressed in the Treaties, the secondary legislation, and the policies of the Union.

This report covers the period from October 2012 to September 2013. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a rule, legislation or measures which are under preparation or awaiting parliamentary approval have not been taken into account. This approach ensures equal treatment across all reports and enables an objective assessment.

The report is based on information gathered and analysed by the Commission. Many sources have been used, including contributions from the government of Montenegro, the EU Member States, European Parliament reports¹ and information from various international and non-governmental organisations.

The Commission draws detailed conclusions regarding Montenegro in its separate communication on enlargement,² based on the technical analysis contained in this report.

1.2. Context

The European Council of December 2010 granted the status of candidate country to Montenegro. Accession negotiations with Montenegro were opened in June 2012. The Stabilisation and Association Agreement between Montenegro and the EU entered into force in May 2010.

1.3. Relations between the EU and Montenegro

After the opening of **accession negotiations**, the screening process was conducted. In line with the new approach for the chapters on judiciary and fundamental rights, and justice, freedom and security, the screening meetings for these chapters took place in spring 2012. By July 2013, all screening meetings had been completed. Two negotiation chapters were opened and provisionally closed, namely: science and research, and education and culture. In June 2013 the government adopted the action plans for chapters 23 and 24, which, together, sketch out a comprehensive reform agenda in the area of the rule of law, including the judiciary and fundamental rights.

Montenegro is participating in the **Stabilisation and Association Process**.

Overall, Montenegro continued to broadly implement its obligations under the **Stabilisation and Association Agreement (SAA)**. A Protocol to the SAA to take account of Croatia's accession to the EU has been agreed between the EU and Montenegro. The Protocol is currently under ratification and is being applied on a provisional basis from 1 July 2013.

¹ The rapporteur for Montenegro is Mr Charles Tannock.

² Enlargement Strategy and Main Challenges 2013-2014, COM(2013) 700.

Regular political and economic dialogue between the EU and Montenegro has continued through the SAA structures. The Stabilisation and Association Council met in December 2012 and in June 2013 and various sub-committee meetings have been held since October 2012. The April stabilisation and association meeting between representatives of the European Parliament and of the Montenegrin Parliament was not attended by the opposition Democratic Front, in protest over alleged irregularities during the presidential elections. Montenegro participates in the multilateral economic dialogue with the Commission and the EU Member States to prepare the country for participation in multilateral surveillance and economic policy coordination under the EU's Economic and Monetary Union.

Visa liberalisation for citizens of Montenegro travelling to the Schengen area has been in force since December 2009. In the framework of the post-visa liberalisation monitoring mechanism, the Commission regularly assesses progress made by the country in the implementation of reforms introduced under the visa roadmap. This also includes an alert mechanism to prevent abuses, coordinated by Frontex. Within this framework, the European Commission has regularly submitted its monitoring reports to the European Parliament and Council. The next report will be presented by the end of 2013. A **readmission agreement** between the European Union and Montenegro has been in force since January 2008.

The EU provides **financial assistance** to Montenegro under the Instrument for Pre-accession Assistance (IPA). For the period 2007-2013, IPA allocation to Montenegro totals €235.7 million. The IPA National Programme 2012-2013 amounts to €21.3 million and was adopted by the Commission in December 2012. This programme addresses the priority sectors identified in the Multi-Annual Indicative Planning Document, in particular the rule of law, public administration reform, the environment and climate change, as well as agriculture and rural development. The programme also supports the alignment of national legislation to the EU *acquis* in areas such as free movement of services, competition, food safety, veterinary and phytosanitary standards. EU financial support has also been provided for the development of civil society under the Civil Society Facility as well as for regional and horizontal IPA programmes. Montenegro benefits from support under the IPA multi-beneficiary and regional programmes. Moreover, it is participating in five cross-border cooperation programmes with neighbouring Western Balkan countries, as well as in transnational cooperation programmes with Member States under the European Regional Development Fund and the IPA Adriatic cross-border programme. The implementation of IPA programmes is currently managed by the EU Delegation in Podgorica. Montenegro's preparations for the decentralised implementation of IPA programmes by the national authorities have further advanced, Montenegro having submitted application packages for the conferral of management for IPA Components I-IV. Montenegro and the Commission are preparing a comprehensive Country Strategy Paper for the period 2014-2020, which will provide the strategic framework for the support to Montenegro under the new Instrument for Pre-Accession Assistance (IPA II).

Montenegro is participating in the following **EU programmes**: the Seventh Research Framework Programme; the Entrepreneurship and Innovation Programme and the Information Communication Technologies Policy Support Programme 2011, both under the Competitiveness and Innovation Framework Programme; Culture 2007-2013; Life Long Learning (centralised actions); and Customs 2013.

2. POLITICAL CRITERIA

This section examines the progress made by Montenegro towards meeting the Copenhagen political criteria, which require stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. It also monitors regional cooperation, good neighbourly relations with enlargement countries and EU Member States

and compliance with international obligations, such as cooperation with the International Criminal Tribunal for the former Yugoslavia.

2.1. Democracy and the rule of law

Constitution

In July 2013, parliament adopted amendments to the Constitution, in the section on the judiciary, which are broadly in line with the Venice Commission recommendations. The amendments strengthen the independence of the judiciary by reducing political influence on the appointment of prosecutors and high-level judicial officials through more transparent and merit-based procedures, and qualified majority thresholds where parliament is involved. (*For more detailed information, see Chapter 23 — Judiciary and fundamental rights.*)

Elections

Early parliamentary elections took place in October 2012. The Democratic Party of Socialists — Social Democratic Party — Liberal Party (DPS-SDP-LP) coalition won 39 seats out of 81, the Democratic Front 20, SNP 9, Positive Montenegro 7, the Bosniak Party 3, Forca 1, Croatian Civic Initiative 1, and the Albanian Coalition 1. The formal requirement of 30% of female candidates in the electoral lists was met. However, only 15% of elected MPs were women.

Presidential elections were held in April 2013 and resulted in the re-election of Filip Vujanovic. Mr Vujanovic's eligibility as a candidate had been unsuccessfully challenged in the Constitutional Court by the junior partner in the governing coalition, the SDP. A legal complaint by the other presidential candidate, Miodrag Lekic, filed after the election in relation to alleged irregularities, resulted in re-elections in a number of polling stations, without changing the overall result. After the completion of the appeal procedures, including a ruling by the Constitutional Court, the State Election Commission announced the final official results on 22 April. The presidential elections were 'professionally and efficiently administered', according to the final report of the OSCE/ODIHR, the international observation mission, and were held in a peaceful and pluralistic environment.

The OSCE/ODIHR report also stated that electoral legislation needed to be amended in line with a number of previous OSCE/ODIHR and Venice Commission recommendations. These include issues such as the right to stand as an independent candidate, the establishment of clearer procedures for the allocation of seats to minority lists, and the extension of the Central Election Commission's mandate for municipal elections.

In its final report, the OSCE/ODIHR raised issues such as the constitutional two-year residency requirement before citizens can obtain the right to vote, which it deemed excessive. It recommended an audit of voter lists, demanded better investigations into alleged misuse of state resources and suggested facilitating requests for election observation. The OSCE/ODIHR also drew attention to the recommendations by the Council of Europe's Group of States against Corruption (GRECO), which had also stated that rules prohibiting elected officials from using the administrative resources of their public office in election campaigns lack enforcement.

Parliament

In protest against the alleged irregularities in the presidential elections, the largest opposition parliamentary group, the Democratic Front, suspended its participation in parliamentary work. Following parliament's passing, on 31 May, of two resolutions, one aiming at strengthening trust in the electoral process and the other enabling an inquiry committee into the issue of the alleged use of public funds for party political purposes (*see below*), the Democratic Front resumed its parliamentary activity.

In March, parliament adopted an action plan for strengthening the body's legislative and oversight role, also in response to the recommendations of the 2012 European Commission's Progress Report on Montenegro.

In November, parliament set up a working group in charge of drafting a resolution on European integration. The adoption of this resolution is expected to define more closely the role of the parliament and the committee on European integration in the accession process, as well as the relationship between the committee and other stakeholders, including the government.

Regarding the transparency of parliament's work, additional measures have been taken to improve interaction with civil society and the public. Parliament replied to all access to information requests received over the reporting period. The sittings of the parliamentary committees are open to the public, subject to the approval of each committee's chair. The establishment of procedures for acting upon civil initiatives is still in the preparatory stage.

Parliament's oversight role has been enhanced. In March, it adopted amendments to the law on data secrecy to give members of the Committee on Anti-Corruption access to confidential data without prior permission. Five control hearings were held: on the case of alleged corruption in the privatisation of the company 'Telekom Crne Gore', on the Prevlaka border issue with Croatia, on the 2004 murder of a journalist, on the alleged illegal activities and violation of state interests regarding the issue of electricity supply to KAP, and on the fulfilment of the obligations stated in the report of the Council of Europe's Commission against racism and intolerance of February 2012. Seven consultative hearings were held by the Committee on European Integration on issues relating to the work of the Ministry of Foreign Affairs and European Integration and current developments in the negotiation process. Consultative hearings were also held by the Committee on Education, Science, Culture and Sports, and the Administrative Committee. A committee of inquiry looked into the 'Telekom Crne Gore' case. Since there was no committee majority in favour of concrete conclusions, a technical report was submitted to the plenary.

On 31 May, parliament formed a committee of inquiry into alleged misuse of public funds for party political purposes. The committee completed its work at the end of July. Parliament limited itself to a technical report, which failed to draw political conclusions. Judicial follow-up remains to be completed. On 31 May, parliament also set up a working group on building trust in the electoral process. It was asked to submit to parliament proposals for amendments to relevant legal framework. The working group already adopted a draft law on a single voters' list, to replace the law on voters' register, as well as draft amendments to the law on personal identity cards. An *ad hoc* committee was set up to monitor media reporting during the elections. The number of parliamentary questions, scrutiny and consultative hearings with high-level state officials and discussions of reports submitted by various institutions has increased. Follow-up to the conclusions adopted by parliamentary committees in oversight hearings remains limited and needs to be reinforced.

Parliament's administrative capacity has been further strengthened, notably by increasing the number of staff by more than a fifth. Available office space has increased. Training courses were conducted. Continued efforts are needed to further enhance parliament's administrative and expert capacity, in general and for all parliamentary committees.

Overall, with regard to parliament's functioning and its legislative and oversight role, its administrative and expert capacity has been reinforced. Transparency has further improved. Efforts to enhance parliament's legislative and oversight capacity need to continue.

Government

Following the October parliamentary elections, the new government — headed by Prime Minister Milo Djukanovic — took office on 4 December.

It kept the same number of ministries (16, plus 1 minister without portfolio). Minor changes have been made to the portfolios of three ministries. The number of deputy prime ministers doubled to four. Thirteen out of 19 members of the previous government participate in the new cabinet. There are only three female members of cabinet.

The four-year programme of the new government puts a strong emphasis on EU integration, socio-economic development and the rule of law.

The government completed the establishment of the negotiating structure, which comprises 33 working groups for the chapters under negotiation. Civil society representatives have continued to be selected for membership of the working groups through calls for expression of interest.

The administrative capacity and financial resources of the Ministry of Foreign Affairs and European Integration to coordinate the EU accession process has been strengthened. As regards transparency, the government started publishing translations of the screening reports endorsed by the Council on the Ministry's website. Also, with a view to facilitating direct communication with the citizens, in October 2012 the government launched an internet platform for e-petitions, open to Montenegrin citizens and foreigners with permanent residence.

Two (not legally binding) parliamentary resolutions called on the government to re-nationalise the privately held shares in the highly-indebted aluminium producer KAP and to commission a long-term sustainability study of the industry. Parliament also demanded that the state audit institution assess the company's debt. The government took no action on this. In July, the acting public prosecutor told the parliamentary Committee for economy and budget that his office had started collecting evidence regarding the unlawful supply of electricity to KAP.

With regard to *local self-government*, elections were held in four municipalities. There were no developments in the rationalisation and efficiency of local administration. Implementing legislation for the new law on civil servants and state employees at local level has not been adopted yet.

Overall, the structures for the accession negotiations have been set up and include representatives of civil society. The administrative and financial capacity of the Ministry of Foreign Affairs and European Integration to coordinate the EU accession process has been strengthened. Additional efforts have been made to increase transparency and citizen's participation in the policy-making process. The overall capacity of ministries to prepare high-quality legislation and impact assessments needs to be enhanced. As regards local government, further efforts are needed to establish a transparent, efficient and accountable administration.

Public administration

The plan for the reorganisation of the public sector, which had been endorsed by the government in April 2012, was finalised and adopted in July 2013. This version provides a sector analysis with a view to identifying adequate staffing levels and increasing efficiency. Reorganisation measures continued to be taken and fourteen administrative bodies were formally incorporated into their parent ministries.

As regards the overall public administration strategy, the coordination and monitoring mechanism for its implementation needs to be strengthened. Responsibility for the coordination of public administration reform is spread among three structures. A consistent legislative framework for public administration bodies and agencies needs to be developed.

The adoption of implementing regulations for the law on inspection control, designed to bring inspections within a single authority and improve the business climate, is well on track.

The 2011 law on civil servants and state employees entered into force in January 2013. It lays the foundations for developing a professional and impartial public administration. Subsequently, amendments to the law entered into force to restrict the re-employment of employees who had left the service and had received severance payments. The majority of necessary implementing legislation has been adopted, including on the recruitment process and the internal organisation of administrative bodies. Some ministries have updated their rulebooks on internal organisation. The process has yet to be completed by all ministries. The law on general administrative procedures has yet to be revised in line with European standards and best practice.

The Human Resources Management Authority has organised a number of training courses and seminars in the fields pertinent to the work of the public administration. The Authority has been tasked with monitoring the implementation of the new law on civil servants and informing the competent inspection authority of potential irregularities. The Authority's administrative capacity has been strengthened, notably by increasing the number of staff from 24 in 2011 to 29 at the end of 2012. Further efforts are needed with regard to maintaining and updating the central human resources register.

Amendments to the law on the state audit institution, aimed at strengthening the institution's financial independence, remain to be adopted. (*See also Chapter 32 — Financial Control*).

At the end of 2012, 112 senior officials and 36 heads of administrative bodies delivered, at the request of the government, undated resignation letters. Subsequently, a small number of these resignations were accepted. Even if motivated by the desire to enhance performance, this practice breaches employment rights and undermines public officials' professional independence of undue political influence.

Overall, in the area of public administration reform, the adoption of the plan for the reorganisation of the public sector and the entry into force of the new law on civil servants and state employees are positive steps forward. Proper implementation needs to be ensured. More efforts are needed to implement the public administration reform strategy. Significant further efforts are needed to improve and to implement the legislative framework. The undated resignations are an issue of concern and should be returned to the staff who signed them.

Ombudsman

The capacity of the Ombudsman's office remains limited, despite the additional staff recruited. A number of awareness-raising activities and seminars have been held; reports on abuse of children via internet, on prison conditions and on protection from discrimination have been completed. Monitoring capacity in the area of torture and ill treatment, and the office's involvement in bringing cases of discrimination to court, need to be substantially enhanced. The law on the ombudsman still presents shortcomings with regard to the office's independence.

Civil society

Representatives of civil society organisations continue to be involved, to some extent, in the activities of the state and local administration, including working groups on the EU accession

negotiation chapters. However, the transparency of the government's procedures for cooperation, consultation and funding of NGOs should be further enhanced.

Judicial system

Transparency of the work of the courts has improved and the backlog of court cases has decreased. Further steps have been taken to rationalise the court network. Constitutional amendments strengthening the independence of the judiciary have been adopted. A single countrywide recruitment system of judges and prosecutors and an objective and merit-based promotion system have yet to be introduced. Measures need to be taken to reinforce accountability and integrity safeguards in the judicial system. The enforcement of civil and administrative decisions remains weak. As regards domestic handling of war crimes, Montenegro needs to tackle impunity and ensure that decisions by the Montenegrin judiciary on war crimes cases are in line with international humanitarian law, reflect the jurisprudence of the International Criminal Tribunal for the former Yugoslavia and fully apply domestic criminal law.

For a detailed analysis of developments in the judicial system, *see Chapter 23 — Judiciary and fundamental rights*.

Fight against corruption

Corruption remains prevalent in many areas and continues to be a serious problem. The implementation of the relevant legislative framework has shown a number of shortcomings, which require further legislative action. The capacity of supervisory institutions in charge of checking political financing and conflict of interest still needs to be enhanced. Increased efforts are needed to establish a credible track record of investigation, prosecution and conviction in corruption cases, including high-level cases.

For a detailed analysis of developments in the area of anti-corruption policy, *see Chapter 23 — Judiciary and fundamental rights*.

Fight against organised crime

Additional efforts are needed in the fight against organised crime. Montenegro is actively involved in regional and international police and judicial cooperation. Some progress was made in the fight against drugs trafficking; however, more efforts are needed in terms of drug seizure. A track record of proactive investigations and final convictions in other organised crime areas has yet to be established, including confiscation of criminal assets. Additional efforts are needed to improve coordination between law enforcement agencies and the judiciary, and to increase capacity to carry out financial investigations in connection with complex criminal investigations. The annulment of first-instance verdicts in cases of organised crime gives rise to serious concern.

For a detailed analysis of developments in the fight against organised crime, *see Chapter 24 — Justice, freedom and security*.

2.2. Human rights and the protection of minorities

Montenegro has further aligned with norms and best practice stemming from international conventions in this area during the negotiation process. The law prohibiting discrimination remains to be amended in order to be aligned with the *acquis*. Shortcomings persist in the enforcement of rights, especially in the area of discrimination against vulnerable groups, notably by judicial authorities. Administrative capacity and financial means to implement the relevant policies in this area remain limited.

The fight against ill-treatment requires increased attention from the authorities; prison conditions need to be brought into line with international standards in this area. Despite recent

convictions and investigations into cases of violence against the media, a number of old and recent cases of threats and violence against journalists, including attacks against media property, need to be solved by stepping up investigations and prosecutions. The recent rise in cases is a cause for concern. Efforts to privatise state-owned print media have been unsuccessful. Some progress has been achieved in introducing a media self-regulation funding model. Promotion of professional and ethical standard should continue.

Consolidation of the legal and policy framework in the field of economic and social rights continued. They need to be brought closer in line with international and EU standards in this area, and the capacity of the state authorities strengthened, especially in the field of justice.

Montenegro's 2013-2014 presidency of the Roma Decade is an important opportunity to enhance its commitment to improving the situation of the Roma, Ashkali and Egyptian (RAE) population not just in Montenegro, but at regional level. These groups face discrimination in everyday life, especially in terms of economic and social rights. Violence against women, in particular Roma women, and domestic violence persist. The adoption of a strategy on lesbian, gay, bisexual, transgender and intersex (LGBTI) rights and convictions in cases of attacks on LGBTI individuals are positive examples of the authorities' commitment in this area. Still, violence and hate speech against LGBTI individuals continue, and have increased since the July 2013 Pride parade in Budva, which showed a high level of homophobia in the country to be addressed by the authorities. Attacks are rarely reported; criminal offences need to be properly prosecuted and penalties reinforced. Activists are still exposed to discrimination.

For a detailed analysis of developments in the area of human rights and the protection of minorities, *see Chapter 23 — Judiciary and fundamental rights*. For developments in the areas of trade union rights, anti-discrimination and equal opportunities, *see also Chapter 19 — Social policy and employment*.

2.3. Regional issues and international obligations

With regard to cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)**, Montenegro neither received any requests for assistance nor had cases referred back to its national authorities by the Court for possible further investigation. (*For domestic handling of war crimes see 2.1 — Judicial system.*)

Montenegro still maintains a 2007 bilateral immunity agreement with the United States, granting exemptions from the jurisdiction of the **International Criminal Court**. This does not comply with the EU Common Position on the integrity of the Rome Statute or with the related EU guiding principles on bilateral immunity agreements. Montenegro needs to align with the EU position in the framework of accession negotiations.

Progress has been made as regards the **Sarajevo Declaration Process**, which brings together Bosnia and Herzegovina, Croatia, Montenegro and Serbia and aims at finding sustainable solutions for the refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. The implementation of the Regional Housing Programme, which aims at providing housing solutions for the most vulnerable refugees and displaced persons in the four countries and is extensively supported with EU financial assistance, has started with the approval of the first round projects by the international donors in April. Joint regional information campaigns on the programme have been carried out throughout the region. However, the implementing capacities of the partner countries need to be further improved and a series of documents and procedures need to be finalised in order for the approved country projects to start. Efficient project implementation units and rigorous beneficiary selection procedures as well as beneficiary data cross checking remain to be established. The good cooperation overall between the partner countries on the process and the housing programme, and on civil documentation and pensions issues, needs to continue.

Regional cooperation and good neighbourly relations form an essential part of Montenegro's process of moving towards the European Union. Montenegro continues to be strongly involved in developing regional cooperation. It also continues to actively participate in regional initiatives, including the South-East European Cooperation Process, the Regional Cooperation Council, the Central European Free Trade Agreement, the Energy Community Treaty and the European Common Aviation Area Agreement. Montenegro has continued to support the Igman Initiative on reconciliation, which brings together NGOs from Bosnia and Herzegovina, Croatia, Serbia and Montenegro. Montenegro also supports the RECOM initiative on regional reconciliation.

Montenegro took a leading role in strengthening regional cooperation at the highest political level, through its proposal for the establishment of the 'Western Balkan Six' initiative, which aims at bringing together the region's leaders in an effort to enhance cooperation on European integration. In this context, close cooperation with the Regional Cooperation Council is important. A meeting of the proposed 'Western Balkans Six', at political directors' level, took place in July.

Montenegro continues to maintain good **bilateral relations with other enlargement countries and neighbouring EU Member States**. However, the delimitation of borders with Croatia, Serbia, Bosnia and Herzegovina and Kosovo* is still pending. In May, Montenegro, Albania, Bosnia and Herzegovina and Croatia signed a memorandum of understanding for cooperation on the Trans-Adriatic Pipeline and Ionian Adriatic Pipeline projects. A bilateral convention on regional cooperation under Article 15 of the SAA has not yet been concluded with Albania; such a convention will also have to be concluded with Serbia, following the recent entry into force of its SAA.

Agreements were signed in various fields with *Albania*, including on mutual protection of classified information, education and electronic exchange of customs data. The agreement on border railway transport was ratified in March. A protocol of cooperation between the police of the two countries during the summer tourist season was signed in June. A treaty on extradition with *Bosnia and Herzegovina* was ratified in March. Negotiations to finalise a border agreement continued.

The agreement with *the former Yugoslav Republic of Macedonia* on police cooperation was ratified in March. The agreement on readmission of persons residing without authorisation and the agreement on the conditions of travel for the nationals of the two countries entered into force in December 2012. An agreement on cooperation and mutual assistance on customs issues was signed in March.

The prime minister of *Serbia* visited Montenegro in September. The agreement on police cooperation with between the two countries entered into force in March. An agreement on consular protection and services in third countries was ratified in July. A readmission agreement was signed. A joint special task force for fighting corruption and crime is operational and has already resulted in police actions in the two countries. There were no developments in the dispute between the Orthodox churches in the two countries.

Concerning *Kosovo*, negotiations are under way to conclude agreements on extradition, mutual enforcement of judicial decisions in criminal matters, and on legal assistance in criminal matters. A joint commission on border demarcation has started work.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

Montenegro and *Turkey* worked closely in the field of economic cooperation and tourism. The two countries signed a readmission agreement and a consular protection agreement. Agreements in the field of science and health were also signed.

Montenegro and *Croatia* signed agreements on cooperation in the field of economy and tourism. The amended local border traffic agreement has not been signed yet. The temporary agreement on the Prevlaka peninsula continues to be implemented smoothly, at technical level. A joint commission on border demarcation was set up in February to solve the Prevlaka issue. The two countries agreed to submit the border demarcation issue to the International Court of Justice only if bilateral negotiations failed.

In November, Montenegro and *Italy* signed an agreement on cooperation in the field of the environment. Two agreements on enhancing the application of the European Convention on Extradition and the European Convention on Mutual Assistance in Criminal Matters were signed in July, as well as an agreement on scientific cooperation.

Overall, Montenegro continues to meet the Stabilisation and Association Process conditions on cooperation with the International Criminal Tribunal for the former Yugoslavia and regional cooperation. A number of bilateral issues with neighbouring countries are still open, notably in the area of border demarcation.

3. ECONOMIC CRITERIA

In examining economic developments in Montenegro, the Commission's approach was guided by the conclusions of the European Council in Copenhagen in June 1993, which stated that membership of the Union requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

3.1. The existence of a functioning market economy

Economic policy essentials

In January 2013, the country presented its second Pre-accession Economic Programme (PEP), covering the period 2013-2015. The priority is still to strengthen fiscal and financial stability as a prerequisite for long-term economic growth. *Overall*, the political consensus on market economy fundamentals and economic policy was broadly maintained.

Macroeconomic stability

After two years of moderate growth, the economy entered into recession in 2012. Real GDP contracted by 2.5%, pulled downward by the poor performance of industry, construction, transport, financial services and agriculture. Industrial production contracted by 7% year-on-year, driven by the decline in manufacturing, particularly the metals industry. On the expenditure side, private consumption and investments remained weak, due to stagnant disposable income and the decline of construction works. Net exports had a positive impact on growth with stronger tourism partly compensating for the fall in merchandise exports (-18% year-on-year). The average per-capita income in purchasing power standards represented 42% of the EU-27 average in 2012.

The economy came out of recession in 2013 with real GDP expanding by 1.1% in the first quarter of 2013, and by 3.4% in the second quarter thanks to the positive performance of industrial production, and notably utilities. Other sectors, like construction, forestry, transportation, and retail trade recorded annual expansion but their overall contribution to growth remains limited. GDP growth slowed somewhat in the second quarter of 2013. In the first half of 2013, industrial output grew by 10.4% year-on-year, maintaining a similar pace in July and August too. In the first six months of 2013 the value of finalised construction works recorded 1.8% annual growth, and the number of tourists increased by 4% year-on-year,

supporting 6.5% year-on-year increase of retail sales. However, private domestic demand still remains subdued due to the contraction of wages, low credit and a stagnant labour market. *Overall*, growth has been largely driven by external demand and one-off base effects, compensating for a still weak domestic demand.

In 2012, the merchandise trade deficit widened to 44% of GDP from 40.4% of GDP a year before. The increase in tourism revenues and higher surpluses from transfers of Montenegrin workers abroad did not suffice to fully compensate for the expansion of the trade deficit. As a result, the 2012 current account deficit 19% of GDP. In the four quarters to June 2013, the current account deficit narrowed to some 16% of GDP as the aggregated balances of services, current transfers and income were in surplus while the trade deficit contracted as a result of the improvement in the energy balance. In 2012, after two consecutive years of contraction, net foreign direct investment (FDI) climbed by 16.6% year-on-year to 14.7% of GDP. In the four quarters to June 2013, net FDI totalled 14.2% of GDP. Net errors and omissions remain a substantial source of finance, related to unrecorded revenues from tourism, remittances and other unregistered cash payments totalling 7.7% of GDP in 2012. *Overall*, despite some improvement, external imbalances still remain very large.

Unemployment remains very high at nearly 20%, practically unchanged since 2010 according to the Labour Force Surveys. In 2012, labour market participation improved marginally to 50% compared to 49% a year before. Regional disparities are significant. In the coastal and central regions, the unemployment rate is 10% and 15.6% respectively, but it rises to 36.7% in northern Montenegro. At national level, both the number of employed and the number of unemployed persons increased by 2.6% year-on-year in 2012. Long-term unemployment remains a serious concern, since 68% of unemployed persons have been out of work for more than two years. Unemployment particularly affects the young (15-24 years), who account for more than 40% of the total. Poor labour market dynamics have also been reflected in wage moderation. Average gross wages contracted in real terms by 3% in 2012 and by 1% in the first half of 2013. *Overall*, a poorly performing labour market with low participation and high unemployment rates, particularly among the young and the long-term unemployed, remains a serious challenge.

Unilateral euroisation implies that there is limited scope for monetary policy discretion. Changes in reserve requirements remained the key tool for steering liquidity in the financial system. The Central Bank of Montenegro (CBM) did, however, test the scope for curbing lending interest rates in November 2012. Rates on new corporate and household loans were capped, during a six-month period, at 14% and 15% respectively. The measure mostly provided relief for those new property or tourism investment loans whose rates were above these thresholds. Yet, the CBM decided not to renew the measure. At aggregated level, the weighted average lending interest rate contracted moderately, from 11.3% in October 2012 to 10.3% until June 2013.

Average consumer price inflation accelerated somewhat to 4.1% in 2012 compared with 3.1% a year earlier, on the back of administrative price increases for electricity and water as well as higher or new excises on tobacco, alcohol, carbonated drinks and coffee. Inflationary pressures eased in the first six months of 2013 as consumer disposable income contracted due to a personal income tax hike in February 2013. The consumer price index declined further to 2.2% in June, down from 3.9% a year before, as a result of the deceleration of prices of housing (which includes utilities), alcoholic beverages and tobacco, transport, as well as restaurants and hotels. In July, when the upper VAT rate was increased, CPI inflation accelerated to 2.7% year-on-year, but declined again to 2.2% in August. The impact of the VAT hike on inflation remained marginal as the tax increase did not apply to items benefitting

from the reduced rate (i.e. some 50% of the consumer basket). *Overall*, inflation remains moderate.

In 2012, despite fiscal consolidation efforts, the government had difficulties meeting its budgetary targets. The budget deficit remained high, at 5.6% of GDP, considerably higher than the deficit target of 2.4% GDP, reflecting weaker than expected growth together with the activation of state guarantees and the accumulation of tax arrears. General government spending broadened to 47% of GDP, from 45% a year before representing a substantial deviation from the planned figure of 41%. Social security transfers increased moderately (by 0.7%) driven by the increase in military pension beneficiaries, while public sector gross wages decreased marginally.

In the first half of 2013, the government pursued fiscal consolidation through a set of new fiscal measures, including a freeze on pensions and limits on salary increases for public enterprises and members of the parliament. Revenue measures consisted of increases of the personal income tax rate from 9% to 15% for salaries above the national average, and as of July, of the upper VAT rate. In the first half of the year, total revenue grew by 5.3% year-on-year, supported by accelerating economic activity, higher tax rates and more efficient collection, while saving measures reduced expenditures by 5.2% year-on-year. As a result, the general government deficit fell to 1.9% of annual GDP, compared with 3.9% in the same period a year before. The stock of cumulated tax arrears since the outbreak of the crisis is estimated at some 11% of GDP.

In July 2013, prompted by the Finance Ministry, the Commercial Court launched bankruptcy proceedings for the aluminium factory KAP. The government took over some of KAP's debts totalling some 3% of GDP, when two state guarantees were called. The Ministry of Finance managed to postpone parts of the debt payment to 2014. In view of strengthening fiscal discipline the government proposed in July 2013 a budget and fiscal responsibility law (i.e. fiscal rules), setting upper limits for public debt and budget deficit at 60% and 3% of GDP respectively. The bill, which is yet to be adopted by parliament, also foresees an independent fiscal council (within the existing state audit institution) to evaluate the government's economic policy and report to the parliament. *Overall*, fiscal risks remain high. The fiscal position of the government remains challenged by substantial contingent liabilities and growing debt.

In 2012, the public debt increased to 54% of GDP. External indebtedness expanded by 22% year-on-year in 2012 and accounts for three quarters of total public debt. State guarantees amounted to an additional 12% of GDP at the end of 2012. The public debt climbed to 52.5% in August following the activation of KAP's state guarantees. Given the shallowness of the domestic financial markets, Montenegro largely relies on foreign markets to finance its debt. *Overall*, roll-over needs keeps rising, together with the risks related to dependence on foreign investor sentiment.

The limited scope for monetary and exchange rate policies and the country's vulnerable external situation imply a strong role for fiscal and structural policies in safeguarding macro-financial stability. In that sense, the recent efforts to strengthen fiscal consolidation represent a further step to improve the policy mix. However, ensuring fiscal sustainability, coping with a weak external position, and public debt reduction, especially after the KAP bankruptcy, remain major challenges.

Interplay of market forces

In 2012, the state had majority ownership in some 30 companies, some of them in the process of liquidation or bankruptcy. The most important ones are concentrated in network industries and the aluminium-bauxite conglomerate. The tenders for the dairy Zora and part of the

agricultural company Montepranzo were successfully closed. However, the sales of the publishing house Pobjeda and the institute for physical therapy failed. The government renegotiated, and in two cases cancelled, the sales contracts of hotels whose new owners failed to invest in them. Some companies, like Montenegro Post and a few attractive state-owned tourist resorts, are being successfully developed as concessions under public-private partnership schemes. *Overall*, the privatisation process, while relatively advanced, suffered some setbacks due to unsatisfactory investors' offers and some cancellations due to failures in post-privatisation investment.

In 2012 fuel prices were removed from the list of administered prices and their aggregated weight reduced in the harmonised index of consumer prices basket to 5.5%, from 10.7% a year before. At the beginning of 2013, the domestic energy market was further opened after the liberalisation of prices for large industrial consumers. In 2013, the weight of administrative prices in the consumer basket was revised upwards to 7.4% after electricity and bread were given greater weight in the annual household budget survey. *Overall*, the influence of the state in price dynamics remains limited.

Market entry and exit

In 2012, 3 540 new businesses were registered, or 6.5% less than in 2011. However, a more favourable environment in the first half of 2013 reversed the trend, with new registrations rising to 2 367, or 21% more than in the same period a year before. Montenegro has made some improvements in terms of the environment for starting a business. After the introduction of electronic business registration in May 2012, further measures to facilitate registration were implemented at regional level too. An electronic portal was opened to simplify procedures for granting business licences and to reduce the cost of and the time required for obtaining permits. In spring 2013, the parliament adopted amendments to the law on spatial planning and construction, shortening deadlines for issuing construction permits, increasing the number of 'objects of public interest' exempted from communal fees and utility charges during construction, and introducing government oversight of municipal fees. Concerning market exit, in 2012 the number of liquidations totalled 1 894, declining 9.4% compared to 2011. However, in the first half of 2013 the number of liquidations rose to 1 067, increasing by 25% year-on-year. The time to clear bankruptcy is estimated at two years, with a recovery rate of 43%. *Overall*, procedures for market entry were further simplified, while some limited progress has been achieved in making bankruptcy proceedings less cumbersome.

Legal system

Judicial proceedings, in particular to enforce commercial contracts, are reported to be slow and burdensome. Some progress has been made on simplifying government legislation and using regulatory impact analysis. After the introduction of a 'regulatory guillotine' in 2012, less than half of the relevant recommendations have been followed so far. In order to streamline caseload, the parliament adopted a law on out-of-court enforcement of commercial contracts by bailiffs. However, the implementing legislation for it is not complete. A land register is in place but modernisation of the land registry is still under way. The Tax Administration is tackling the informal economy mostly by stepping up surveillance of undeclared economic activities. In June 2013, the law on prevention of illegal business came into force. To prevent tax evasion, the law limits cash transactions (including for salaries), increases banks transparency on money transactions, and prohibits the establishment of new business for owners of companies undergoing bankruptcy proceedings. *Overall*, further efforts are required to improve the legal system and tackle corruption with the aim of improving the business environment.

Financial sector development

The withdrawal of foreign parent bank funding from Montenegrin bank deposits abated towards the end of 2012 thanks to calmer financial markets and stronger deposit growth (9% year-on-year in 2012 and in the first half of 2013; compared to 1.5% in 2011). In 2012, the guarantee for banks deposits was raised from €35 000 to €50 000. After several years of contraction, bank lending started to grow in 2013, expanding by 4.6% year-on-year in the first half of the year. The ratio of non-performing loans (NPL) increased to 16.9% of total loans at the end of 2012 compared with 15.5% a year earlier. At the end of 2012, loan-loss provisions covered 40% of NPLs, which net of provisions represented 68% of banks' capital. Following the introduction in January 2013 of international accounting standards (IAS/IFRS), loans previously recorded as losses are required to be transferred back onto the banks' balance sheets. In the first half of 2013, the NPL ratio worsened, reaching 18.5% at the end of June.

Following the central bank's recommendations resulting from the stress tests performed in 2012, three banks raised their capital by the end of the year. However, at the end of 2012 the aggregate capital of commercial banks fell by 5.4% year-on-year as lenders wrote off losses. Consequently, the capital adequacy ratio (CAR) declined to 14.7% at the end of 2012 compared to 16.5% a year before. In the first six months to June 2013, bank's capital expanded by 4%, improving the CAR to 15.5%. Some 83% of banks' capital remains foreign-owned and 2.7% in public ownership. Banks' return on assets and on equity remained negative in 2012, at 2.1% and 18.3% respectively, reflected in the negative profitability of the financial sector in 2012, with an aggregated loss of €56 million compared with a €3 million loss a year earlier. The rebound of economic activity in the first six months of 2013 conveyed positive return on assets and on equity of banks (1.3% and 9.2% respectively), along with an aggregated profit of €18.5 million. *Overall*, the banking sector continues to deleverage, increasingly relying on deposits to fund their loans. The high level of non-performing loans still weighs on credit supply, constraining investments and growth.

The domestic non-bank financial sector remains shallow. The insurance segment recorded 3.2% annual growth in 2012, supported by government subsidies on insurance for agriculture. Insurance companies' gross premium represents some 2% of GDP. Non-life insurance continues to dominate its product structure with a market share of 86% compared with 14% for life premiums. Leasing contracts offer an aggregated value of around 4% of GDP. However, most of these contracts (97%) are for the purchase of vehicles rather than productive equipment. The stock exchange's annual turnover fell by 44.6% to €32.7 million in 2012, after increasing by 7.6% to €59 million a year earlier. *Overall*, the small size of the domestic financial market makes the country highly dependent on external financing, and therefore, vulnerable to shifts in market conditions.

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

Existence of a functioning market economy

Macroeconomic stability was broadly preserved. The country came out of recession in 2013 driven by external demand. Domestic demand remains subdued and the unemployment rate high. Credit started to slowly flow back into the economy, but the high level of non-performing loans still weigh on bank capitalisation and hence, on credit supply. External imbalances, albeit declining, still remain very high. The government pursued further fiscal consolidation measures. However, the fiscal position weakened burdened by substantial liabilities from the bankrupt aluminium industry.

Human and physical capital endowment

Employers complain about the lack of university graduates with the right set of skills. However, further reform of the education and vocational training systems has been delayed due to budgetary constraints. So far, government efforts are focused on subsidies for employers to recruit those with more difficulties into the labour market as well as young graduates without working experience. The large number of workers in early retirement remains a particular issue for the sustainability of public finances. *Overall*, more efforts are needed to promote skills in order to build the capacity of businesses to meet international competitive pressure.

A substantial part of investment in infrastructure is funded externally through FDI and international financial institutions. Work on the power transmission line for the interconnection project with Italy started in 2013 and will develop the local and regional electricity markets. The construction of several small hydropower plants is under way, and in June 2013, a tender for additional concessions on eight watercourses was launched. Work on two wind power plants has been delayed pending the release of the urban plans. In July 2013 the Podgorica-Nikšić railway line, linking the two largest cities together with the steel factory and bauxite mines to the port of Bar, was reopened after several years' closure for upgrading. In the tourism sector, the second phase of Porto Montenegro and work in Lustica peninsula and Kumbor are ongoing. *Overall*, capacity increase in transport, energy, and tourism sectors are setting the basis for future exports and overall growth performance.

In 2012, gross expenditure on research and development (R&D) represented some 0.4% of GDP, roughly the same as a year before. The private sector accounts for barely 27% of this figure. *Overall*, although public institutions participate actively in European research programmes, private sector involvement remains limited (*See Chapter 25 — Science and research*).

Sector and enterprise structure

The development of a regional electricity market is under way, and includes preparation of the interconnection infrastructure between the Italian and Balkan peninsulas through Montenegro and new connections between regional power systems, increased capacity and the establishment of the South-East European Coordinated Auction Office in Podgorica. In May 2013, the government signed a memorandum of understanding with Albania, Croatia and Bosnia and Herzegovina as a preliminary step towards developing a domestic gas market connected to the Ionic-Adriatic pipeline. The postal market has been formally liberalised. The restructuring of Montenegro Airlines is being implemented before re-listing the company for privatisation. The future of the aluminium industry remains uncertain. The company is bankrupt and (if accepted) a restructuring plan would still require substantial investment and subsidies. *Overall*, Montenegro's industrial structure is shifting from aluminium towards energy. At the same time, the overall structure of the economy is shifting towards services. In 2012, a breakdown of average employment by sectors showed 76% of workers to be employed in services, of which 24% were employed in wholesale and retail trade. Industry accounted for 18% (with 7% in manufacturing, 6% in construction, 2.4% in utilities and 1% in mining), and agriculture (including forestry and fishing) 5.6%. *Overall*, the expansion of the service sector is mostly in the non-tradable sector.

Small and medium-sized enterprises (SMEs) find it difficult to access credit. Public-sector support for SMEs remains limited. The value of financial relief provided by the state Investment and Development Fund (IDF) to SMEs in 2012 was €14 million. The IDF also provides some credit lines for start-ups and factoring facility. Some public support is also available to organise public export promotion programmes, including participation in trade fairs, trade missions and market research studies.

The informal sector is large and is fuelled by weaknesses in tax and expenditure policies and in law enforcement, including the fight against corruption. In an effort to reduce the informal economy, the government strengthened controls on excise goods, retail trade records and the labour market. *Overall*, credit constraints and unfair competition from the large informal sector remain major challenges for the development of SMEs.

State influence on competitiveness

In 2012, the government allocated €42 million or 1.3% of GDP in state aid, of which 84% was allocated to Montenegro Airlines. Yet, the state aid report does not cover the support to KAP for the supply in electricity, state guarantees or tax arrears. Parliament's decision in April 2013 to keep loss-making KAP going implies that state aid would continue until the company is thoroughly restructured or liquidated. Under the Stabilisation and Association Agreement and EU competition rules, any state aid must be temporary and accompanied by compensatory measures, and depends on a restructuring plan ensuring the long-term viability of the company. *Overall*, state aid has been largely concentrated on two companies: KAP and Montenegro Airlines.

Economic integration and convergence with the EU

In 2012, Montenegro's trade openness fell by 4% to 69% of GDP, due to the contraction of exports. Sales to Italy, Hungary and Greece plunged by between 60% and 90% over the year, reducing the EU's share to 36.8% of Montenegro's total trade in 2012, from 41.3% the year before. The CEFTA countries increased their share to 47.5% of Montenegro's total trade in 2012, from 44% a year earlier. In the six months to June 2013, the share of trade with the EU and CEFTA decreased marginally to 36.4% and 47.1% respectively. In 2012, the EU accounted for 50% of total investment in Montenegro. Russia is still the single largest investor in Montenegro, with 25% of total FDI, of which 82% is in real estate. CEFTA countries accounted for 5% of total net FDI. The reduction of production costs through wage moderation preserved Montenegro's external competitiveness to some extent. *Overall*, trade integration with the EU remains high.

4. ABILITY TO TAKE ON THE OBLIGATIONS OF MEMBERSHIP

This section examines Montenegro's ability to take on the obligations of membership — that is, the *acquis* as expressed in the Treaties, the secondary legislation and the policies of the Union. It also analyses Montenegro's administrative capacity to implement the *acquis*. The analysis is structured in accordance with the list of 33 *acquis* chapters. In each sector, the Commission's assessment covers progress achieved during the reporting period and summarises the country's overall level of preparations.

4.1. Chapter 1: Free movement of goods

There have been no developments as concerns **general principles**. As regards **horizontal measures**, following the entry into force, in the previous year, of the law on technical requirements for product and conformity assessment, two implementing regulations on conformity marks and recognition documents were adopted in December 2012. Further alignment remains to be achieved, e.g. in the meaning and terms of use of the CE marking.

The strategy for introducing free movement of goods still needs to be elaborated and adopted in order to plan for Montenegro's alignment with the *acquis* in this chapter, enhance coordination, and strengthen administrative capacity to ensure effective implementation. No progress has been made on reviewing existing implementing and technical legislation with a view to ensuring compliance with Articles 34-36 of the TFEU.

As regards *standardisation*, by September 2013 the Institute for Standardisation of Montenegro (ISME) had adopted over 10 000 standards, 31% of which are harmonised

European standards according to the 'New Approach'. The ISME set up six new technical committees, which brings the total to 14. The ISME successfully introduced Internal Rules for Standardisation, thus meeting one of the criteria for full membership of CEN/CENELEC. Further efforts are needed to meet all membership criteria, e.g. introducing real-time synchronisation of developing standards with the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC) and the European Telecommunications Standards Institute. A strategy for the development of standardisation has not yet been adopted. While capacity is gradually improving, resource limitations remain a concern.

In the area of *conformity assessment*, the framework law still needs to be amended in line with the *acquis* and a large body of implementing legislation remains to be adopted. The requirements for designating conformity assessment bodies need to be further clarified and specified.

As regards *accreditation*, in December 2012 the Accreditation Body of Montenegro (ATCG) adopted new rules on participation in inter-laboratory comparisons and schemes for examining qualifications, in line with the standards of the European and international organisations for accreditation (EA/ILAC/IAF). A formal application to sign the EA Multilateral Agreement has not been submitted yet. Since January 2013, the ATCG granted accreditation to two more testing laboratories for drinking water and physical noise, while two accreditations were voluntarily revoked. In total, 19 conformity assessment bodies have been accredited so far, but interest in accreditation remains low. There has been no progress on adopting a strategy for accreditation.

As regards *metrology*, implementing legislation was adopted in June 2013 to further align with the EU Directives on Measuring Instruments and on Non-Automatic Weighing Instruments. The Bureau of Metrology (BoM) improved its internal management, reporting and information system. In March 2013, the BoM applied to the ATCG for accreditation of three laboratories working in the area of mass, length, and temperature. BoM resources remain limited. This hampered calibration activities in 2012 and impedes the accreditation of the metrological laboratories. In October 2012, the BoM joined the International Association of Assay Offices. The BoM actively participates in the work of EURAMET Technical Committees and in international inter-laboratory comparisons. The strategy on metrology has yet to be adopted.

In the area of *market surveillance*, the new single market inspection authority was strengthened and now comprises 28 inspection services. Five other inspection services have yet to be included. Internal procedures are needed to ensure uniform and coordinated application of market surveillance activities across the different inspection services. The annual plan for market surveillance for 2013 was drafted in March 2013. The new laws on general product safety and on market surveillance still need to be pursued to further align the legal framework with the *acquis*.

As regards '**Old Approach**' **product legislation**, in November 2012 the Ministry of Health adopted guidelines on good distribution practice for wholesale medicines in line with the 2011 law on medicines.

There have been no developments as regards the '**New and Global Approach**' **product legislation**.

In the area of **procedural measures**, in January 2013 Montenegro adopted a regulation on notification procedures in the field of technical regulations, standards, conformity assessment procedures and regulations on information society services. The capacity of the quality infrastructure department of the Ministry of Economy, currently three staff members, needs to

be strengthened to ensure effective coordination among the various stakeholders, especially on legislative and enforcement issues. No progress was made on alignment with the *acquis* on the acquisition and possession of weapons and on cultural goods.

Conclusion

Limited progress was made in the area of free movement of goods. Montenegro needs to strengthen capacity and improve coordination and ownership to further align with and implement the *acquis*. Overall, preparations in the area of free movement of goods are relatively advanced.

4.2. Chapter 2: Freedom of movement for workers

In the area of **access to the labour market**, the current legislation still requires EU nationals to obtain work permits. An analysis has been made of a unified procedure for issuing work and residence permits for foreigners. Preparations in this area are starting.

In preparation for future participation in the **EURES** (European Employment Services) network, a EURES department is being set up in the new employment agency, and further training of potential EURES advisers has been provided. Preparations in this area have started.

Administrative capacity for the **coordination of social security systems** has been strengthened slightly. A bilateral social security agreement with Croatia was signed in July 2013, and negotiations on the relevant co-operation agreements with Slovakia and Bosnia and Herzegovina continued. Preparations in this area are starting.

Preparations for the **European Health Insurance Card** still need to be launched.

Conclusion

Some progress has been made in the field of freedom of movement for workers. Steps have been taken to strengthen administrative capacity. Overall, alignment with the *acquis* is still at an early stage.

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

In the field of the **right of establishment**, company registration procedures are advancing at central level. The new electronic portal for business licences was launched in December 2012 to further simplify procedures and reduce both the cost of and time required for licensing. Additional efforts to implement the reforms are needed at local level.

As regards **freedom to provide cross-border services**, preparations for transposing the Services Directive began. The council for promoting the business environment, regulatory and structural reforms set up a working group in February to coordinate transposition of the Services Directive and related regulations into national legislation.

In the area of **postal services**, the postal market has been fully opened from the beginning of 2013. Legislation to implement the law on postal services has been adopted. After public-private partnership tenders for Montenegro's postal service failed, it remains in the privatisation plan for 2013. The administrative capacity of the national regulatory authority remains unchanged.

In the field of **mutual recognition of professional qualifications**, there were no further legislative developments. There is still a need to draft a list of regulated professions and to harmonise study programmes with the minimum requirements of the *acquis*. Administrative capacity needs to be strengthened.

Conclusion

Overall, some progress was made on the right of establishment and freedom to provide services. Substantial efforts are still needed to align the legislation and implement the *acquis* on mutual recognition of professional qualifications.

4.4. Chapter 4: Free movement of capital

As regards **capital movements and payments**, Montenegro has essentially liberalised them, but further efforts are needed to fully align legislation with the *acquis*.

Regarding the **payment system**, there were some developments.

With regard to the **fight against money laundering**, implementing legislation on information on the payer in electronic transfers was adopted in November 2012.

Inter-agency co-operation needs to be strengthened and a coordinating body to manage this system needs to be established, since the current memoranda of understanding between institutions are not enforced effectively. The Ministry of Finance, the Administration for the Prevention of Money Laundering and Terrorist Financing (APMLTF), and the Central Bank of Montenegro jointly worked on drafting the third progress report on anti-money laundering and terrorism financing submitted to the Council of Europe's Moneyval, which noted progress in this field, and adopted the report in December 2012.

The APMLTF's capacity remains unchanged. It conducted an organisational and legal review which served to identify strategic objectives and legal shortcomings. Its IT system still needs to be updated so that it can support the workflow effectively. The APMLTF has a very high staff turnover and the human resources issues must be addressed before proceeding with the IT investment needed.

The supervisory authorities' administrative capacity for conducting anti-money laundering inspections still needs to be strengthened. Similarly, further efforts are needed to improve awareness to ensure adequate implementation of the anti-money laundering rules, and to enhance co-operation between the APMLTF, the regulators/supervisory bodies and the sectors concerned in enforcing anti-money laundering legislation.

Conclusion

Little progress was made on free movement of capital. As regards combating money laundering and terrorism financing, further efforts are needed. Major efforts are required to enforce legislation, enhance inter-agency coordination and establish a track record of fighting money laundering and financial crime. Overall, preparations are moderately advanced.

4.5. Chapter 5: Public procurement

As regards the **general principles** applying to public procurement in Montenegro, legislation on concessions, utilities, and defence procurement has yet to be harmonised with the *acquis*. Further alignment of procurement methods and consultancy services is required. Transparency needs to be improved, particularly as regards updating the concessions register and the publication of concession contracts and of payments. The internal rules for enhancing integrity need to be further developed.

As regards the **award of public contracts**, steps were taken to consolidate the number of contracting authorities, which fell from over 1 000 to 679 in the course of 2012. Further efforts are needed to enhance the use and effectiveness of framework agreements and central purchasing. The 2012 annual report on public procurement was adopted by the government in July 2013.

The Public Procurement Authority (PPA) employs currently 15 staff out of 18 posts on its organisation chart adopted in April 2013. The PPA trained 540 procurement staff at central and local level in 2012. Montenegro set up a certification programme and 14 procurement officers obtained a professional qualification in public procurement. The new IT system, introduced in 2012 and refined in 2013, allows constant monitoring of the procedures, with basic indicators, quick compilation of annual data, and improved transparency for traditional procurement procedures. Currently there are 3 000 registered users, 15% of which are foreign users.

The implementation of the new public procurement law that entered into force in January 2012 remains a concern. The PPA's responsibilities, e.g. in monitoring and assessing contract implementation and the risk of irregularities, analysing infringements and deviations from good practice, and providing legislative advice, still need to be clarified and strengthened. Major problems were detected with procurement in the health sector in 2012.

Montenegro has not yet secured the resources to set up an effective inspection service for contracts lower than €500 000. This jeopardises the correct implementation of the law and supervision of contract procedures and the contracts awarded. The one appointed inspector conducted 45 checks in 2012, and, in 2013, 28 checks on tender procedures below €500 000. This resulted in the cancellation of three public procurement procedures.

In November 2012, the state audit institution issued recommendations on the public procurement system, including on unrealistic planning, non-transparent procedures and overuse of direct agreements, failure to appoint public procurement officers, cases where single public procurement contracts had been split into several contracts, and poor reporting. In 2013, the Ministry of Finance established an action plan to follow-up on these recommendations.

As regards **remedies**, the State Commission for the Control of Public Procurement (SCCPP) has consolidated its operations since having been set up in 2012. In 2012, the SCCPP reviewed 682 cases, 95% of which were completed, and conducted 49 controls on contracts above €500 000. Statistics show that 42% of all appeals submitted to the SCCPP were upheld and one third of the procurement procedures checked were partially or fully cancelled. However, the high rate of rejection of SCCPP decisions by the administrative courts is an issue of concern.

Conclusion

Some progress has been made in the area of public procurement. Montenegro is still at an early stage with regard to harmonisation with the *acquis* on utilities, concessions, and defence procurement, and needs to strengthen implementation and enforcement capacity at all levels. Overall, preparations in the area of public procurement are moderately advanced.

4.6. Chapter 6: Company law

National legislation concerning **company law** is largely aligned with the *acquis*.

Electronic applications for company registration were introduced in May 2012. Montenegro decided to postpone the adoption of new legislation on **corporate accounting** and **auditing** following substantial revision of the EU *acquis*.

An Agreement with the World Bank on a project to set up a body for public supervision was signed in August 2013.

Conclusion

Little progress was made in the field of company law. New amendments to the law on accounting and auditing, establishing an independent public oversight body for auditors and a

related quality control system, have yet to be adopted. Overall, preparations remain moderately advanced.

4.7. Chapter 7: Intellectual property law

Legislation on intellectual property is largely in line with the *acquis*.

In the area of **copyright and neighbouring rights**, the regulation on depositing and registering copyright works and related rights was adopted.

In the area of **industrial property rights** (IPR), the regulation on the procedure for recognition, changes and renewal of the validity of industrial design was adopted. The amendments to the law on legal protection of industrial design were adopted. The Nice Agreement concerning the international classification of goods and services for the purposes of the registration of marks was ratified. The protocol amending the TRIPS Agreement was ratified. IT infrastructure in the Montenegro Intellectual Property Office is weak. There is no effective patent or trademark database. Financial investment in IT is not sufficient and its lack is impeding progress.

Regarding **enforcement**, the Ministry of Economy drafted its first report on the implementation of the IPR strategy 2012-2015. Effective monitoring and implementation of the strategy needs additional efforts and resources. The number of judges specialised in IPR matters in the commercial court has increased from three to five, a significant improvement. There is no specialisation in the first instance civil courts. There are two customs officers working directly on IPR issues. The market inspectorate is responsible for IPR investigations but inspectors do not specialise in IPR. Capacity within the police and prosecution in IPR enforcement is weak. There is no staff specialisation and training is scarce. Overall, there is a good enforcement record in the commercial court and the customs administration, with the exception of criminal prosecution.

Conclusion

Some progress was made in the area of intellectual property. Legislation is largely in line with the *acquis*. Further efforts are needed to improve staffing levels and IT infrastructure and to implement the *acquis* effectively in the medium term. Overall, preparations are advanced.

4.8. Chapter 8: Competition policy

As regards **anti-trust and mergers**, the new law on competition, further aligning the national legislation with the *acquis*, entered into force in October 2012. Additional secondary legislation was also adopted.

The new Agency for Protection of Competition (APC) was founded in February 2013 and became formally operational in March. The number of case-handlers increased from five to seven.

There has been no improvement in Montenegro's enforcement record, mainly due to its focus on reorganising the activities of the new Agency. As regards mergers, the APC approved 15 out of 19 merger requests submitted (two were withdrawn, two are still pending). ACP launched three *ex officio* cases, which resulted into imposing the first periodic fine for failure in data delivery. On abuse of dominant position, the ACP dealt with six cases, in only one of which did it establish abuse of dominant position. Two ACP decisions were partially or fully endorsed by the administrative court. The capacity of the judiciary to deal with complex competition cases needs to be strengthened.

As regards **state aid**, the government amended the decree on state aid notification and the Ministry of Finance revised the rulebook on the annual report. State aid secondary legislation

has yet to be fully aligned with the *acquis*. A number of existing fiscal aid measures need to be adjusted to align them with the *acquis*.

The administrative capacity of the State Aid Control Unit (SACU) at the Ministry of Finance, acting as a secretariat for the State Aid Control Commission (SACC), was reinforced slightly with the recruitment of a new official, but its operational capacity still needs to be built up. In 2012, SACC assessed 10 notifications on state aid and launched one *ex officio* investigation. Nine of the notifications were approved. Given its institutional set-up, the SACC/SACU's independence from the state-granting bodies, in particular, remains to be secured. Its decisions and recommendations should be binding to the parliament and the government.

There has been some progress regarding major state aid cases; aid been granted to Montenegro Airlines and in the steel sector. Subsidies to the aluminium plant KAP remains an issue of serious concern. The company is highly indebted, loss-making and poses a risk to public finances. EU rules and the requirements of the Stabilisation and Association Agreement for restructuring aid must be complied with. The SACC/SACU's annual report was adopted by the government and submitted to the parliament in July 2013.

As regards liberalisation, the period of exclusive rights for postal services granted to Montenegro Post expired in December 2012.

Conclusions

Some progress was made as regards the alignment of the legislative framework with the *acquis*. The independence of the competition authorities, particularly in the state aid field, needs to be demonstrated through the enforcement record, which still needs to be significantly improved. Special attention needs to be given to the aluminium plant KAP. Overall, preparations are moderately advanced.

4.9. Chapter 9: Financial services

As regards **banks and financial conglomerates**, implementing legislation amending the decision on minimum standards for credit risk management in banks came into force as of January 2013. In line with that, implementing legislation was adopted to bring banks' obligations in line with the International Accounting Standards. As of January 2013, a new deposit guarantee threshold of €50 000 is in place, and the deadline for payment of guaranteed deposits has been reduced from 45 to 20 working days.

In the area of **insurance and occupational pensions**, following the entrance into force of the new law on compulsory insurance in transport and amendments to the law on insurance, relevant implementing legislation was adopted by the end of 2012. Rulebooks on detailed conditions for granting licences to operate an insurance business, and on the content of opinions of the authorised actuary, were adopted in 2013.

The Insurance Supervision Agency has significantly improved its human resources and it now has 20 employees. The Agency is upgrading its staff's capacity in relation to actuarial education and accounting. The Agency performed eight on-site inspections of insurance companies and four off site besides regular quarterly off site inspections of all insurance companies.

There were no developments on **financial market infrastructure**.

In the area of **securities markets and investment services**, legislation implementing the law on investment funds was adopted. The Securities and Exchange Commission co-signed a memorandum of cooperation in the area of Alternative Investment Funds by the European Securities and Markets Authority (ESMA). New software application for the control of

investment funds has yet to be introduced. A new law on capital markets has been drafted and will replace the current law on securities.

Conclusion

There has been some progress in the field of financial services, in particular in aligning banking legislation with International Accounting Standards, adopting implementing legislation in the area of insurance and the securities markets, and strengthening insurance supervision capacity. Substantial efforts are still required to align with and implement the existing *acquis*. Overall, the level of alignment is moderately advanced.

4.10. Chapter 10: Information society and media

As regards **electronic communications and information and communications technologies (ICT)**, a new law on electronic communications was adopted by parliament in July 2013, entering into force in August 2013, aligning with the *acquis* on conditional access and aiming at aligning with the 2009 EU telecom package. The new law requires the Agency for Electronic Communications and Postal Services (EKIP) to transfer any budget surplus to the state budget until 1 January 2016. It also foresees that the parliament can dismiss the President and the members of the Council if it fails to adopt the Activity report with the Financial statement. EKIP has completed analyses of seven markets. Assessments have been made and operators have been issued with instructions in line with the market assessment conclusions. EKIP has focused on improving capacity and resources by providing training for its staff. The Ministry for Information Society and Telecommunications has increased its capacity to process appeals from service providers in line with the previous law. The government has introduced a one-euro tax on all SIM cards and internet and cable connections as a temporary measure. After two years, no decision has yet been made by the constitutional court on the appeal EKIP lodged against legislative amendments of September 2011, providing for the automatic dismissal of its board and executive director if its financial report is not approved by parliament. Montenegro recorded fast growth rates in the fixed broadband penetration and it reached 14.2% of the population according to the latest available data.

As regards **information society services**, the work of the computer incident response team was further developed, with 12 rulebooks adopted by the government in September 2012. A strategy on cyber-security was adopted in September 2013. An Analysis of the condition of e-government in Montenegro for 2012 was adopted by the government in June 2013 and implementation of the e-Government Portal project has continued.

In the area of **audio-visual policy**, amendments to the law on electronic media were adopted in January 2013, requiring the Agency for Electronic Media to transfer any budget surplus to the state budget. Parliament also obliged the Agency to amend its financial plan for 2013. This clearly undermines the Agency's independence. The overall capacity of the Agency to fulfil its tasks is weak, and in particular its monitoring capacity remains limited. As regards digitisation, equipment has been delivered and installed. Uncertainties still remain over whether the second phase of the digitisation process will be launched in time to meet the deadlines (17 June 2015). The public service broadcaster has made some efforts to restructure. The key financial challenges it faces are to meet digitisation needs and to provide — with the existing financial resources — high quality content for three TV channels (two radio channels), including a parliamentary channel.

Conclusion

There has been some progress in the area of information society and media. A good level of legal alignment has been reached. There are persistent concerns as regards EKIP's independence notably because of the lack of a Constitutional Court decision on the EKIP

appeal. In the area of audio-visual policy, the independence of the Agency for Electronic Media continues to be undermined by parliament. First steps have been taken to reform the public service broadcaster, but its financial sustainability is a concern. Overall, preparations are on track.

4.11. Chapter 11: Agriculture and rural development

In the area of **horizontal issues**, some efforts are being made to de-link direct support measures from production, but the majority of production remains closely linked. Direct support measures will need to be brought into line with the *acquis*, by decoupling them from production and introducing a system of payment entitlements.

In the area of **common market organisation**, preparations still need to be launched.

As regards **rural development**, support for national rural development measures continued. The operational manual for the fourth public call for investments in agriculture holdings was published in February 2013. The rural development programme under the Instrument for Pre-Accession Assistance for Rural Development (IPARD) remains under preparation.

The Head of the Payments Sector has been appointed. Currently the sector has 25 members of staff involved in preparations for IPA component V (IPARD), while the sector for rural development has five employees.

The Ministry of Agriculture and Rural Development has set up a working group to monitor activities related to establishing the decentralised management and control systems for IPA component V (IPARD). The accreditation package for the IPARD operational structures was presented to the National Fund in July for national accreditation. Preparations are at an early stage in this area.

In the field of **quality policy**, implementing legislation under the law on designations of origin, geographical indications and designations of traditional specialty agricultural products and foodstuffs needs to be adopted. Preparations in this area are moderately advanced.

As regards **organic farming**, the law on organic production has yet to be adopted. Preparations in this area are moderately advanced.

Conclusion

There has been some progress as regards agriculture and rural development policy. The Agriculture and Rural Development national strategy needs to be prepared and additional capacity building is required to ensure future implementation of the IPA rural development programme. Overall, alignment with the *acquis* is at an early stage.

4.12. Chapter 12: Food safety, veterinary and phytosanitary policy

As regards **general food safety**, a strategy for the transposition and implementation of the *acquis* in this area is under preparation. The implementing legislation on microbiological criteria for food safety was adopted. A rulebook on microbiological food safety criteria was adopted. The revised law on food safety has yet to be adopted. Preparations in this area are at an early stage.

In the area of **veterinary policy**, the multiannual programme for the eradication of rabies has continued and the effectiveness of the vaccination campaigns was evaluated based on laboratory analyses conducted by the veterinary diagnostic laboratory. The laboratory was equipped and the staff trained for this purpose. Monitoring of classical swine fever in wild boars was conducted. Preparations in the field of veterinary policy are at an early stage.

With regard to the **placing on the market of food, feed and animal by-products**, a feasibility study has been finalised on the establishment of a rendering plant for disposal of

animal by-products in accordance with EU standards. No decision has been made yet on the source of funding or whether to opt for a regional solution. Preparations in this field are at an early stage.

In the area of **food safety rules**, the Ministry of Agriculture and Rural Development has adopted a programme for monitoring residues in animals and products of animal origin intended for human consumption for 2013. The programme for 2012 has been implemented. Preparations in the area of food safety rules are not very advanced.

As regards **specific rules for feed**, preparations are at an early stage.

In the area of **phytosanitary policy**, the International Convention for the Protection of New Varieties of Plants was ratified. Implementing legislation was adopted on a range of issues including the registration of operators. Capacity-building activities for the administration, laboratory staff and inspection continued. Preparations in the area of the phytosanitary sector are moderately advanced.

There were no developments on alignment and implementation of the *acquis* in the area of **genetically modified organisms (GMOs)**.

Conclusion

Some progress was made in the field of food safety, veterinary and phytosanitary policy. Further efforts are needed on all aspects of this policy area, in particular on further legislative alignment with the *acquis*. Overall, preparations remain at an early stage.

4.13. Chapter 13: Fisheries

There were no developments as regards **resource and fleet management**.

In the area of **inspection and control**, fishery inspection capacity remains limited. Three rulebooks in the field of marine fisheries and mariculture were adopted. Serious efforts are needed to ensure systematic processing of data from logbooks, adequate registration of catches and landings, the use of sales notes and systematic cross-checking between catch composition and logbook records. No developments have taken place in the area of administrative capacity.

There were no developments as regards **structural actions, market policy, state aid, or international agreements** on fisheries.

Conclusion

No progress was made in the field of fisheries. Efforts are needed to strengthen administrative capacity, align legislation with the *acquis* and implement EU standards, in particular in the areas of resource and fleet management, inspection and control, market policy, structural policy and state aid policy. Overall, preparations in this area are at an early stage.

4.14. Chapter 14: Transport policy

As regards **road transport**, the new law on road traffic safety entered into force in January 2013 and Montenegro drafted an action plan for implementing the road safety strategy for 2013, setting the framework for further improvement of existing road safety legislation and for the implementation of measures to rebuild the road infrastructure. In the area of passenger rights, Montenegro adopted amendments to the law on contracts in road transport to ensure further alignment with the *acquis*. The new law on transport of dangerous goods is yet to be adopted. Further alignment is needed in road safety, notably concerning vehicle roadworthiness inspections and roadside checks, driving licences, professional drivers' qualification and training, infrastructure safety.

In the area of **rail transport**, the agreement on border railway transport between Montenegro and Albania was ratified in March 2013. Further alignment with EU legislation remains necessary for the agreement with Serbia. The new Railway law was adopted in May 2013 aiming at setting a new regulatory framework for managing the railway infrastructure and transport services, defining the competences of the Railway Directorate as the regulatory body, and improving the competitiveness and quality of transport. A five-year business plan was prepared by the Railway Directorate for 2013-2017, but it has not yet been endorsed by the government. Further alignment with the *acquis* in the area of rail transport safety is needed, in particular with regard to the train driver licenses and interoperability. The track access charges for freight trains are at €3 per train km of a 1 000 t train, which is rather high, whereas charges for passenger trains only amount to €0.2. The latter seem to be below direct costs and thus not in line with EU rules.

Montenegro has limited **inland waterways transport**, which is currently regulated under the same provisions as maritime transport. Lake Skadar and the connecting rivers need to be reclassified as inland waterways, with limited applicability of relevant EU *acquis* in this area.

There were no developments as regards combined transport.

In the area of **air transport**, the national Commission for Investigation of Accidents and Serious Incidents in Civil Aviation was appointed in September 2012, establishing the fundamental principles governing the investigation of civil accidents and incidents. New rulebooks aiming at aligning the national legislation with the EU *acquis* on working time and technical requirements for cabin crew were adopted. Following a review mission by the European Commission in September 2012 to assess the implementation of legislation under Annex 1 of the European Common Aviation Area (ECAA) Agreement, it was concluded that Montenegro had stepped up progress towards meeting the phase 1 requirements under the ECAA agreement and that the great majority of these requirements had been complied with. Some matters, especially in the field of economic regulation, had not been adequately transposed into the national legislation.

As regards maritime transport, the law on safety of maritime navigation as well as implementing legislation is not adopted yet. Parliament adopted in May 2013 the amended law on ports, providing for the new organisation of port infrastructure and adjustment of concession policies. In the area of sea pollution prevention, the international convention MARPOL 73/78 Annex VI was ratified in March 2013. Montenegro needs to make additional efforts to become a full member of the Paris memorandum of understanding on Port State Control. Professional capacity needs to be enhanced, with properly qualified, trained and authorised officers, in particular harbourmasters, and remains a major challenge.

Conclusion

There has been some progress in the field of transport policy. Further progress needs to be made in the rail transport sector concerning interoperability, setting up an accident investigation body, and ensuring the independence of the railway regulator. The safety and security requirements in the maritime sector and standards for the transport of dangerous goods by road have still not been adopted. Overall, preparations in this area are advanced.

4.15. Chapter 15: Energy

The Energy Development Strategy for the period to 2030 is yet to be adopted.

In the area of **security of supply**, the decree on mandatory strategic stocks of oil and petroleum products still needs to be adopted. Currently there are no strategic reserves of petroleum products or crude oil in Montenegro. Montenegro has no stockholding body.

As regards the **internal energy market**, the Energy Regulatory Agency has further developed implementing legislation which fulfils some of the preconditions for establishing a functioning energy market. Most secondary legislation to the 2010 energy law has now been adopted. All eligible customers connected to the distribution system remain entitled to be supplied at regulated tariffs. The energy regulator granted in September 2012 a second licence for energy retail supply to the state-owned company, Montenegro Bonus. As of the end of 2012, the three customers connected directly to the transmission system (large industrial clients) can no longer be supplied under regulated tariffs. Two of them concluded supply contracts, but the largest customer, the Aluminium Plant Podgorica (KAP) did not negotiate any contract. Its subsequent unauthorised and unpaid electricity consumption has put an important burden on the Montenegrin electricity system and has caused a serious imbalance in the Montenegrin electricity system, which is part of a synchronous system. These imbalances therefore had to be compensated by other producers in the Continental European region, with significant financial consequences. The accumulated imbalance was compensated through an extraordinary compensation program. Full compensation was achieved by the end of July. Since mid-June KAP has an electricity supply contract. The government of Montenegro has taken over the control of KAP.

The distribution company remains integrated in the Montenegrin Electric Power Company (EPCG). There has been no progress with regard to the development of a gas market in Montenegro. Montenegro became an observer to the Energy Charter in November 2012. Montenegro began preparations for alignment with the Third Energy Package by 1 January 2015, in line with its obligations under the Energy Community Treaty.

As regards **renewable energy**, implementing legislation for issuing energy licences has been amended. Montenegro risks running late on its obligation to align with the Renewable Energy Directive, which is due by 1 January 2014. Further streamlining of administrative procedures including simplified procedures for smaller installations and provisions on guarantees of origin will be needed to achieve full transposition of provisions on administrative procedures, regulations and codes. Under a Decision by the Ministerial Council of the Energy Community taken in October 2012, Montenegro's target for renewable sources as a proportion of gross final consumption of energy is 33%. A national renewable energy action plan is yet to be adopted. Measures for the regulation of biofuels and the promotion of renewable energy in transport have not been introduced yet. A third round of tenders for the construction of small hydropower plants was published.

In the field of **energy efficiency**, implementing legislation on energy performance of buildings and energy audits has been adopted. Full alignment with the *acquis* on labelling and energy performance of buildings remains to be achieved, and the country will need to work on alignment with the 2012 Energy Efficiency Directive. Projects on improving the energy efficiency of public buildings and on raising public awareness are ongoing. Administrative capacity for the promotion of energy efficiency is limited.

As regards **nuclear energy, nuclear safety and radiation protection**, in November 2012 the International Atomic Energy Agency (IAEA) conducted an *ad hoc* inspection as a follow-up to two National Reports and Declarations of Nuclear Materials. IAEA inspectors confirmed the accuracy of inventory data on nuclear materials provided by Montenegro. The government adopted the third and fourth National Report and Declaration of Nuclear Materials in Montenegro in, respectively, March and May 2013. Montenegro has not acceded yet to the Convention on Nuclear Safety and the amended Convention on the Physical Protection of Nuclear Materials. As regards administrative capacity, the number of staff remains unchanged.

Conclusion

Some progress can be reported in the area of energy. Some implementing legislation for the internal energy market has yet to be adopted. Montenegro still needs to adopt the necessary acts concerning oil stocks reserves, and the ten-year work programme (national renewable energy action plan) on the development of renewable energy sources. Preparations in the area of energy are moderately advanced.

4.16. Chapter 16: Taxation

As regards **indirect taxation**, amendments to the VAT law were adopted to raise the general rate from 17 to 19%, expand the tax base and combat the informal economy by introducing higher fines for tax offences. Amendments to the excise law came into force in August 2013. The law provides for a gradual increase in the cigarette excise duty, and the elimination of the coffee excise duty as from January 2015. Preparations in the area of indirect taxation are moderately advanced.

In the area of **direct taxation**, the law on personal income tax was amended as of February 2013, in line with fiscal consolidation measures, temporarily increasing personal income tax on gross monthly salaries of over €720 from 9% to 15%. The measure applies until the end of 2013. Preparations in the area of direct taxation are moderately advanced.

To improve tax compliance, as of July 2013 the tax administration will publish a quarterly list of the 100 largest tax debtors that fail to service their tax debts for more than a year.

As regards **administrative cooperation and mutual assistance**, Montenegro is yet to begin alignment with the EU legal framework for administrative cooperation with EU Member States. Significant efforts still need to be made in this area.

In the areas of **operational capacity** and **computerisation of the tax administration**, strengthening the IT systems for interconnectivity and interoperability with the EU systems remains one of the biggest challenges for the Tax Administration. Upgrading the administration's strategic management capacity and the training structure and capacity remains a major challenge. A comprehensive business and IT strategy, including training, needs to be put in place. Preparations in this area are not very advanced.

Conclusion

Limited progress was made in the area of taxation. The Tax Administration needs to upgrade its management and training capacity and to set out an overall business and IT strategy, establish the appropriate legal framework for alignment with the *acquis*, and the corresponding structures for its implementation, including on cooperation and mutual assistance. Overall, Montenegro's alignment with the *acquis* is moderately advanced.

4.17. Chapter 17: Economic and monetary policy

As regards **monetary policy**, implementing legislation limiting the central bank's independent use of property was amended in April to strengthen the principle of central bank independence. Legislation needs to be aligned with the *acquis* on monetary financing and privileged access by the public sector to financial institutions. Montenegro does not have standard monetary policy tools at its disposal, as it uses the euro as its sole legal tender, which leaves fiscal policy as the main effective policy instrument.

In the area of **economic policy**, Montenegro submitted its second Pre-accession Economic Programme (PEP) to the European Commission in January, covering the period 2013-2015. As part of budget planning, the government produces guidelines for macroeconomic and fiscal policy, which include a three-year mid-term plan. The government pursued fiscal consolidation through a set of new fiscal measures, such as increased personal income tax,

VAT and limits on salary increases. This led to an improved fiscal performance in 2013, but unwinding contingent liabilities is putting public finances under stress. The financing of the budget deficit is based on a three-year central government debt management strategy drafted in consultation with the central bank. While the analytical work has been enhanced compared with the previous PEP, the analysis of external sustainability and of competitiveness remains limited, and there are still some data inconsistencies. Capacity for economic policy formulation and coordination needs to be strengthened. Further efforts are needed to improve fiscal reporting and to align with ESA95 standards.

Conclusion

There was limited progress in the area of economic and monetary policy. Additional efforts are needed in particular regarding monetary financing and privileged access by the public sector to financial institutions. Montenegro's present use of the euro, decided by the Montenegrin authorities in exceptional circumstances, is fully distinct from euro-area membership. Overall, alignment in the area of economic and monetary policy is moderately advanced.

4.18. Chapter 18: Statistics

As regards **statistical infrastructure**, Monstat adopted internal rules on matters such as quality management, financial management and control, statistics dissemination strategy and methods of keeping records on individual users of statistical data. Statistical confidentiality was strengthened with the adoption of regulations on keeping statistical data. Financial and human resources and office space continue to be a critical issue.

In the area of **classifications and registers**, in January 2013, Monstat adopted a rulebook on statistical registers (business, agricultural, and spatial). At the end of 2012, the existing metadata were further improved and the business register was made compliant with the EU common framework for business registers. Implementation of NACE Rev.2 classification was expanded into more statistical areas.

In the area of **sectoral statistics**, concerning national accounts, Monstat published in December 2012 the annual GDP for 2010 and 2011. As regards agriculture, Monstat produced the first version of the Statistical Farm Register and in October 2012 issued the national methodological report on the farm structure survey 2010. In February 2013, Monstat published research and development statistics. In the framework of structural business statistics, Monstat published the number and structure of business enterprises in Montenegro for 2011. Monstat completed the calculation of PRODCOM statistics for 2011. Alignment with the *acquis* has advanced in the areas of environment, energy price, labour market, income and living conditions statistics. Particular efforts are needed to send all statistical data to Eurostat.

Conclusion

Good progress was made in the area of statistics. The main issue of concern remains Monstat's inadequate human and financial resources. Montenegro has to ensure further investment in a number of statistical areas and full harmonisation with the EU's statistical standards and methodologies. Overall, preparations in the area of statistics are moderately advanced.

4.19. Chapter 19: Social policy and employment

In the field of **labour law**, amendments to the labour law were adopted in December 2012 with the aim of further aligning with the *acquis*. Implementation and enforcement of the legislation remains a challenge. Preparations in this area have started.

In the area of **health and safety at work**, a Department for Health and Safety at Work has been established in the Ministry of Labour and Social Welfare (MLSW). Labour inspectors have been trained in some areas of the *acquis*. The capacity of the Directorate for Inspection Affairs, including the labour inspectorate, is not adequate due to limited financial resources and the lack of an adequate IT system. Preparations in this area are starting.

In the field of **social dialogue**, amendments to the law on trade union representation were adopted in July 2013 to increase transparency. Despite staff shortages, the Social Council has met regularly and provided opinions/recommendations on a number of important pieces of draft legislation and issues, including negotiations on a new general tripartite collective agreement which are in the final phase. A working group has also been set up to draft amendments to the law on the social council in order to create the legal basis for setting up the Council's secretariat. Bi-partite social dialogue remains weak, especially in the private sector. Preparations in this area are at an early stage.

In the area of **employment policy**, an action plan for employment and human resource development for 2013 was adopted in December 2012. It focuses on measures and activities directed particularly at young people and the long-term unemployed, but it was not fully implemented due to budgetary constraints. The labour market situation remains critical: activity and employment rates further declined in 2012 to 50% and 40.1% respectively as compared with 57% and 46% in 2011. Unemployment contracted marginally, but still remained high at 19.7% on average in 2012 (2011: 20%) according to the EU Labour Force Survey. According to the employment agency, the registered unemployment rate was 13.5% at the end of 2012, but climbed to 14.2% in the first quarter of 2013 (compared with 13.6% a year before). A law on the prevention of illegal businesses was adopted in June 2013. A working group has been set up to propose measures to combat the grey economy and an action plan for 2013 prepared. Undeclared work continues to be an obstacle to increasing regular employment. Preparations in this area are at an early stage.

As regards preparations for the **European Social Fund**, Montenegro's strategic coherence framework was endorsed by the Commission in December 2012. A new section for programming and implementing EU funds was set up in March 2013 as an independent unit within the MLSW. Despite the provision of training, administrative capacity in the relevant line ministries is still insufficient, in terms of both numbers of staff and expertise. Preparations in this area have started. (*See also Chapter 22 — Regional policy and coordination of structural instruments*)

In the area of **social inclusion**, a new law on social and child protection was adopted by parliament in May 2013. In January 2013, an action plan, covering 2013, for the 2012–2016 strategy for improving the position of Roma, Ashkali and Egyptian (RAE) population was adopted. A strategy for social protection of the elderly 2013–2017 was adopted in June 2013. Training continued in the field of education and care for vulnerable children (the RAE population and children with disabilities). Guidelines were adopted for their inclusion into the mainstream education system. The number of day-care centres for children with disabilities increased. As regards *people with disabilities*, amendments to the law on spatial development, adopted in July 2013, foresee some measures to improve accessibility. Yet, overall access to buildings, including education and medical facilities, remains a concern. The law on prohibition of discrimination against people with disabilities continues to present shortcomings. Preparations in this area have started.

In the field of **social protection**, the first phase of introduction of the Social Card / Social Welfare Information System in Montenegro (SWIS) has started. The introduction of standards for service delivery, and professional empowerment of service providers to meet them, is pending. A large number of training courses on planning, development, delivery and

sustainability of social services have been provided. Progress on administrative and fiscal decentralisation of social services continues to be limited. Funded pension schemes based on mandatory savings have not yet been introduced. Further measures are needed for improving the sustainability of the pension system. Preparations in this area are at an early stage.

In the area of **anti-discrimination**, training and promotion of anti-discrimination have continued with the aim of raising awareness and capacity to provide protection against discrimination particularly at local level. National legislation in this area still presents shortcomings, e.g. concerning the Ombudsman's independence. The financial and administrative capacity of the Council for Protection against Discrimination is not yet adequate. Awareness among judges of the anti-discrimination *acquis* is not widespread. Preparations in this area are on track. *(See also Chapter 23 — Judiciary and Fundamental rights)*

In the field of **equal opportunities**, a second action plan for the Achievement of Gender Equality for the period 2013–2017 was adopted in January 2013. Specialised seminars and trainings continued to be carried out in order to strengthen judges' and prosecutors' capabilities with regard to gender equality and anti-discrimination. The Human Resources Management Authority continued with its own training programme targeting civil servants and state employees. There was limited strengthening of financial and human resources to ensure that gender equality mechanisms work well and that the gender equality action plan is implemented. Women remain under-represented in the labour market. Montenegro has started to address its priorities in this area. *(See also Chapter 23 — Judiciary and Fundamental rights)*

Conclusion

Some progress was made in the area of social policy and employment. The labour market situation remains critical; resolute action is needed to address low activity and employment rates and the mismatch between the skills available and needs, partly through increasing the capacity of the public employment service to implement activation policies. Efforts should be stepped up as regards poverty reduction, improving the inclusion of the RAE population, people with disabilities and other vulnerable groups. Further measures are needed to improve the sustainability of the pensions system, and to set up community-based services as an alternative to institutionalisation. Further efforts are also needed in the area of health and safety at work and with a view to improving the transparency and functioning of social dialogue. Overall, Montenegro has started to address its priorities in this area.

4.20. Chapter 20: Enterprise and industrial policy

In the area of **enterprise and industrial policy principles**, action plans for 2013 were adopted for the strategies for life-long entrepreneurial learning 2008-2013, for the development of small and medium-sized enterprises (SMEs) 2011-2015 and for improving competitiveness at the micro level 2011-2015.

Montenegro implements the Small Business Act and made progress in simplifying legislation and using regulatory impact analysis. A new electronic portal for business licences (www.licenca.me) was launched in December 2012 providing all available information on business licensing, including the application forms, fees, information on documents needed, and contact points in the relevant institutions. While public-private consultations are held on a regular basis, there is as yet little evidence that stakeholders' feedback is effectively and systematically taken into consideration.

As regards **enterprise and industrial instruments**, Montenegro's Investment and Development Fund signed a credit arrangement with the European Investment Fund to provide direct credit support to SMEs. Overall, available public sector support for SMEs

remains low. SMEs still find it difficult to access credit, with other sources of finances, including risk capital, guarantee schemes, and venture capital, being in the early stages of development.

Under the national programme for encouraging cluster development in the northern region and less-developed municipalities, financial support was provided for three clusters. Sixteen companies received support under the voucher scheme project for innovative SMEs.

Conclusion

There has been little progress in the area of enterprise and industrial policy. The lack of administrative capacity and fragmented strategies impede the effectiveness of the instruments that have been put in place. A strategic effort to promote skills at all levels in sectors where Montenegro has significant trade with the EU will be important to improve competitiveness and ensure preparedness for competitive pressures and market forces within the Union.

4.21. Chapter 21: Trans-European networks

In the area of Trans-European **transport networks**, Montenegro has continued to participate in the work under the memorandum of understanding on the development of the South-East Europe Regional Transport Network. Upgrading road and rail links included in the South-East Europe Transport Observatory (SEETO) comprehensive network remains a priority.

As regards preparations for developing the Bar-Boljare motorway project (SEETO route 4), Montenegro focused its efforts on implementation of the new dual carriageway / single carriageway route for the Podgorica–Mateševo section. The government proposed a Chinese company to construct the priority section of the highway. This represents a huge investment in new roads, which might add to imbalances in the transport sector and crowd out investment in other transport modes. Preparations for the main project design are ongoing. As regards the privatisation of the port of Bar, a Turkish company was ranked first for the privatisation of the majority stake in the cargo and the general freight terminal.

In the area of trans-European **energy networks**, implementation of the underwater interconnection cable with Italy continues. The implementation of a project for a 400 kV overhead line linking the coast (Lastva) with the north of the country (Pljevlja) has advanced further. As regards gas, Montenegro participates in the Interstate Committee set up by the members of the Energy Community who signed a memorandum of understanding and cooperation with the Trans-Adriatic Pipeline AG (TAP). TAP was recently selected as the pipeline that will transport Azeri gas into the EU.

Conclusion

Some progress has been made in the area of Trans-European Networks. Significant work remains to be done on improving road and rail links. Further efforts need to be made to upgrade the electric transmission system. Overall, preparations in this area are moderately advanced.

4.22. Chapter 22: Regional policy and coordination of structural instruments

As regards the **legislative framework**, the relevant national policies (competition, state aid, public procurement, environmental protection, transport, anti-discrimination, gender equality) are not yet fully in line with the EU standards and requirements or the SAA. Preparations in this area are still at an early stage.

As regards the **institutional framework**, all key appointments have been made in the two IPA operating structures. Euro bank accounts for each of the two operational programmes (Regional Development and Human Resources Development) were opened in December 2012. Preparations for decentralised management continued with the finalisation of the

manuals of procedures along with the operational and implementation agreements. Following the results of the compliance assessment for the two programmes, the accreditation of the national structures were finalised in March 2013. The accreditation package was submitted to the European Commission in March 2013 for both programmes and the European Commission audit reports are under preparation. The organisational set up still needs to be completely aligned with the audit findings and recommendations. Preparations in this area are now moderately advanced.

In the area of **administrative capacity**, the insufficient number of staff in place in IPA bodies and institutions, the organisational set-up and financial independence of the audit authority are major outstanding issues.

In the area of **programming**, the Commission approved the strategic coherence framework in December 2012. It adopted the operational programme for human resources development in October 2012, and drafting of project identification sheets is at an advanced stage. The operational programme for regional development was adopted in December 2012. The quality and maturity of projects need to be further improved to comply with the requirements for the IPA components preparing for the structural funds and the cohesion fund. Project preparation and strategic planning capabilities need to improve. Preparations in this area are now moderately advanced.

In the area of **monitoring and evaluation**, the development and installation of a comprehensive and computerised management information system, accessible and usable by all concerned bodies, is still at early stage. Preparations in this area still need to be launched.

In the field of **financial management, control and audit**, the audit authority was registered for legal, tax and statistical purposes in November 2012. It moved out of the premises of the state audit institution to its own offices in March 2013. Full segregation of the audit authority from the state audit institution will only be achieved when it has its own human resources management, accounting and archiving function. The organisational chart was approved in February 2013. Of the five employees trained to audit IPA funds, none was selected. Currently the audit authority has a staff of four (one senior and one junior auditor, the chief auditor and a translator). The deputy chief auditor has still to be appointed. The audit methodology and manuals of procedure have not yet been finalised. The audit software is still to be installed and training to be done. The capacity of the audit authority remains an issue of concern. Preparations in this area are not very advanced.

Conclusion

Some progress was made in the area of regional policy and coordination of structural instruments. Overall, preparations in this area are at an early stage. The main issues of concern remain the staffing of the IPA operating structures, the organisational set-up, and the operational and financial independence of the audit authority.

4.23. Chapter 23: Judiciary and fundamental rights

In June 2013, the government adopted the action plan for Chapter 23, which addresses the recommendations made in the screening report and constitutes the benchmark for opening negotiations on this chapter. The action plan covers the areas of judicial reform, anti-corruption, and fundamental rights. It has been developed in close consultation with the European Commission, relevant stakeholders, civil society and international organisations.

Judicial system

Judicial reform has proceeded slowly. The judicial reform strategy for the period 2007-2012 and the revised action plan have been partially implemented. The adoption of the new judicial reform strategy for the period 2012-2018 is still pending.

As regards the **independence** and **impartiality** of the judiciary, in July 2013 parliament adopted amendments to the Constitution designed to enhance the independence of the judiciary, in particular by reducing political influence on the appointment of prosecutors and high-level judicial officials through more transparent and merit-based procedures and increased majority thresholds where parliament is involved. The main areas which were reformed in line with the recommendations of the Venice Commission and European standards are the appointment and dismissal of the President of the Supreme Court, the composition and competences of the Judicial Council, the election and dismissal of judges of the Constitutional Court as well as the appointment and dismissal of the Supreme State Prosecutor and prosecutors. Parliament also adopted the constitutional law on implementation of the constitutional provisions, setting deadlines for the alignment of the relevant legislation with the new rules. In September, parliament adopted amendments to the law on the judicial council, the law on courts, the law on the constitutional court and the law on the state prosecution, with a view to aligning them with the recent constitutional amendments.

In July 2013 parliament adopted amendments to the Criminal Code, which introduce a new provision on obstruction of justice, making undue interference in the work of judicial officials punishable by imprisonment.

The Judicial Council appointed six judges. The selection criteria continue to be vague and are not assessed on the basis of clearly-defined indicators. The grounds for decisions are not fully documented. Uniform, objective, and transparent assessment of candidates is yet to be guaranteed. Vacancies continue to be published for specific courts, and a single, countrywide recruitment system based on transparent and objective criteria has yet to be established for judges and prosecutors. It should be complemented by a system of voluntary, horizontal, permanent transfer. A fair, fully merit-based and transparent system of promotion for judges and prosecutors needs to be established, together with periodic professional assessment of their performance.

The functioning of the Judicial and Prosecutorial Councils continues to be hampered by insufficient staffing and budgets. The transparency of the Judicial Council's work needs to be further increased.

Random allocation of court cases continues to be ensured in courts, except in smaller courts with few staff. Since April 2013, all court cases have been assigned electronically using the Judicial Information System.

Most court decisions have become publicly accessible but they are not published in a timely manner. In March, the Supreme Court adopted guidelines on access to information.

In comparison with Council of Europe and EU member states, and bearing in mind the size of the population of Montenegro, the Montenegrin president issued a very high number of presidential pardoning decisions (2012: 366; 2013: 299 until July). In August 2013, parliament adopted an amnesty law leading to the release, shortening or abolishing the sentences of 380 convicted criminal offenders. It is a matter of concern that this amnesty law was passed without prior risk and impact assessment. It needs to be avoided that such practices lead to impunity and counteract efforts in the area of fighting corruption and organised crime.

In the field of **accountability** of the judiciary, five disciplinary proceedings were initiated against judges; three cases were dismissed, while two proceedings are still pending. The disciplinary system needs to be improved to fully comply with the principles of legality and proportionality and to reduce discretion in the application of disciplinary rules. The Disciplinary Commission's dual role in investigating and deciding on disciplinary proceedings needs to be reviewed, and information on the outcome of disciplinary

proceedings published in an appropriate form. Additional measures should be taken to raise citizens' awareness of existing complaint mechanisms, in particular the Code of Ethics. Immunity rules and their practical application need to be clarified in line with best practice to ensure full accountability of judges and prosecutors under criminal law.

As to **efficiency**, the courts continued to reduce the backlog of cases, by approximately 6% during 2012. The basic courts cut the backlog by 14%. The growing backlog of the commercial courts and the administrative court remains a matter of concern. Following the enactment of the law on bailiffs in December 2011, the relevant by-laws were adopted and training for bailiff candidates conducted. Recruitment of bailiffs is still awaited. The enforcement of civil and administrative decisions remains weak. A reliable statistical system to measure the recovery rate, costs, and duration of enforcement proceedings has yet to be established.

The length of trials is still a matter of concern. Montenegro needs to continue giving priority treatment to and monitoring old cases. The possibility of referring cases from higher to lower instances without going into the merits of the case is one of the main reasons for lengthy trials; this option could be limited to extraordinary circumstances in accordance with European best practice.

Following the adoption of amendments to the law on mediation in May 2012, a number of by-laws have been adopted. Most cases of mediation relate to family cases and cases involving juvenile offenders; regarding civil and commercial matters, recourse to mediation is rare. The use of mediation needs to be promoted, e.g. through providing specialist training for judges and awareness-raising.

The 2013 budget for the judiciary and the prosecution is €26.1 million (0.8% of GDP), of which €20.3 million is allocated to the judiciary. The salaries of magistrates and administrative staff continue to account for the bulk of this, thus reducing the scope for remedying shortcomings in infrastructure and equipment. The prosecution is struggling to cover the cost of criminal proceedings.

Further steps have been taken with a view to rationalising the judicial network. In February, the Ministry of Justice adopted an analysis on the rationalisation of the judicial network. It recommends streamlining the network of misdemeanour courts, merging the two commercial courts, and hearing cases of organised crime, corruption, terrorism and war crimes only in one special division of the Podgorica High Court. A plan for implementing the recommendations was adopted in June 2013.

The Judicial Information System (PRIS) started to be used for statistical reporting, thereby increasing the reliability of data. The statistical indicators used do not yet provide full information about the duration of trials and courts' performance. Further improvements to the judicial IT system in accordance with relevant indicators are needed to ensure reliable and consistent data and to introduce a system to monitor the length of trials.

A medium- and long-term human resources strategy needs to be developed. Standards for the workload of judges and standard timeframes for proceedings for specific types of cases and/or specific courts have yet to be set as a basis for determining the resources needed to eliminate the backlog and to resolve the influx of new cases and allocating them efficiently.

The Judicial Training Centre continued to provide initial and continuous training to judges and prosecutors. The independence and the administrative and financial capacity of the centre need to be strengthened.

As regards **access to justice**, the implementation of the law on free legal aid through the free legal aid offices established in all basic courts continues to be hampered by the offices'

insufficient budget and the lack of public awareness. Free legal aid services are inaccessible to some ethnic groups due to linguistic barriers. The timeframe established by law for deciding whether an application meets the eligibility criteria is considered to be extremely short.

As regards *domestic handling of war crimes*, in the case of the deportation of Bosnian refugees (1992), the Appellate Court confirmed in May 2013 the second first-instance judgment rendered by the Podgorica High Court in November 2012, which acquitted all nine indicted former officials of the Montenegrin Ministry of Interior. This judgement is final now and concludes the second, out of four, local war crimes trials. The first-instance trial against eight former members of the Yugoslav Army indicted for war crimes in Kaludjerski laz (1999) has been ongoing since 2009. In November 2012, one defendant was released on bail. In July 2013, the Podgorica High Court rendered a decision on the third first-instance trial in the case of war crimes committed against prisoners of war and civilians in the Morinj camp (1991). Four defendants were sentenced to the same low prison sentences as in the second first-instance judgement of January 2012. Montenegro needs to make efforts to tackle impunity. All outstanding reports of war crimes need to be duly followed up. Decisions by the Montenegrin judiciary on war crimes cases need to be in line with international humanitarian law, to reflect the jurisprudence of the International Criminal Tribunal for the former Yugoslavia, and to fully apply domestic criminal law. The charges of command responsibility, co-perpetration or aiding and abetting have so far not been used. Montenegro needs to ensure that civilian victims have access to justice and reparations.

Anti-corruption policy

Implementation of the strategy for fighting corruption and organised crime and the revised 2011-2012 action plan has continued. The action plan for 2013-2014 was adopted in May 2013. Some 100 measures (almost one third) of the previous action plan have not been implemented and were included in the new action plan. Also, the action plan for Chapter 23 envisages a set of ambitious measures in the area of anti-corruption. Montenegro needs to strengthen its overall capacity to properly implement and monitor all actions foreseen to prevent and fight corruption. So far the impact of anti-corruption measures has been limited.

Some efforts were made to strengthen the legal and institutional anti-corruption framework. The new parliamentary Anti-Corruption Committee, chaired by an opposition MP, was set up. In March 2013, parliament adopted amendments to the law on data secrecy, allowing members of the Anti-Corruption Committee to access classified data without prior permission.

The recent parliamentary elections had a number of shortcomings with regard to the implementation of the current legislation on political party financing. A working group has been established in order to improve the legal framework (*see also section 2.1 – Parliament*). The recommendations made by OSCE/ODIHR also need to be addressed as part of this process. The reporting and accounting obligations of political parties need to be enhanced and made more transparent. Significant efforts need to be made to prevent the abuse of state resources for electoral campaigns. In July 2013 parliament adopted amendments to the Criminal Code, which introduced the criminal offence of abuse of state resources. Rules on party and campaign financing need to be better enforced. Dissuasive penalties should be introduced and applied in practice. An effective monitoring system before and during election campaigns needs to be ensured. The independence and the financial and human resources of the state election commission need to be reinforced in order to ensure effective exercise of its supervisory and monitoring function. The state audit institution also requires additional resources, in particular additional qualified auditors. The remaining recommendations by the Council of Europe's Group of States against Corruption (GRECO) need to be fully implemented.

As regards control of conflict of interest and checks on asset declarations, the law on internal affairs was amended in July 2013 to require about 500 high-ranking police officials to disclose their assets. Not all state and local officials submitted asset declarations within the deadline set by the law. The Commission for the Prevention of Conflict of Interest initiated proceedings against 602 officials who failed to submit their asset declarations for 2012/2013 (September 2012 - September 2013) in time. In 508 of these cases, misdemeanour proceedings have been launched, out of which so far 400 cases have been resolved; fines were imposed in 101 cases (for a total amount of €24 950), reprimands were issued to 240 public officials. The Commission also launched proceedings against 222 officials who provided incorrect information in their asset declarations. Due to the practice of discontinuing proceedings if public officials provide additional information and correct their asset declarations, only 15 misdemeanour proceedings have been launched; four cases have been resolved: one case was dismissed; one case has led to a small fine; and two officials were reprimanded. Between September 2012 and September 2013, around 2 200 assets declarations were checked and compared with the data of the real estate administration, the securities commission, the tax administration, and the public procurement administration. Cross-checking of data needs to be improved. In March, the Commission for the Prevention of Conflict of Interest signed a memorandum of understanding with the directorate for real estate but it does not yet have access to all relevant databases held by other state entities. The Commission still lacks the power to access banking information and check for illicit enrichment. The Commission should carry out its tasks in a more proactive manner, and also focus on uncovering cases of illicit wealth through systematically cross-checking declarations of assets with data from other databases, on the basis of risk assessments. Cooperation with law enforcement institutions on uncovering illegal acts needs to be stepped up. Increased attention needs to be given to checking on conflict of interest, where there is a risk of public officials taking official decisions that benefit themselves or persons close to them. The Commission has launched procedures against 22 public officials for failure to declare a possible conflict of interest in the performance of their duties. Dissuasive penalties need to be applied.

Montenegro needs to strengthen implementation capacity at all levels in order to reduce irregularities in the implementation of the law on public procurement by different contracting authorities. The lack of transparency of certain procedures, failure to appoint public procurement officers, splitting of single public procurement contracts into several contracts and poor reporting create conditions conducive to corruption. Targeted training for prosecutors and judges on public procurement issues should be provided. Monitoring and control measures need to be increased, both in the phases of *ex-ante* control and contract implementation. (See also Chapter 5 — Public procurement)

The Directorate for Anti-Corruption Initiatives (DACI) continued to implement awareness-raising campaigns and provide training and workshops on integrity plans for public officials. The government adopted guidelines on drafting integrity plans for civil servants. State institutions, including courts, have appointed integrity managers responsible for the preparation and implementation of the integrity plans. The customs administration adopted a new code of ethics, which entered into force in January 2013. In July 2013, amendments to the criminal code were adopted, containing a provision that renders dismissals of whistle-blowers punishable. Whistle-blower protection needs to be made more effective in practice in order to facilitate reporting of corruptive acts.

Training of civil servants on the amended law on free access to information, which entered into force in February 2013, has started. Effective application of the provisions on prevailing public interest, including where corruption is involved, and with regard to sensitive information of economic value, has yet to be tested. The independence of the agency for

personal data protection and free access to information should be strengthened. Its administrative capacity to implement the law should be reinforced through additional staff and training.

In January, the government adopted an analysis of the implementation of the criminal procedure code and a working group has been set up to draft amendments aimed at overcoming the legal and institutional shortcomings it identified. Based on an analysis of the rationalisation of the court network adopted in February, jurisdiction for cases of organised crime, corruption, terrorism and war crimes is to be concentrated in one specialised division of the Podgorica High Court. By-laws to the law on management of seized and confiscated assets were adopted in October to improve the management of seized or confiscated proceeds of crime and provide the legal basis for their sale.

The institutional and operational capacity of prosecutors, judges and police to fight corruption has been enhanced through further training support but remains insufficient. The special investigative team in the special prosecution office still lacks direct access to relevant databases, as well as human and financial resources, in particular financial expertise. The professional capacity of the Public Property Administration, responsible for the management and sale of proceeds of crime, needs to be reinforced. The capacity to carry out systematic financial investigations in corruption cases needs to be enhanced. Inter-agency cooperation has improved to a certain extent but needs to be further developed, including between the prosecution and police in the pre-trial phase. The prosecution's leading role needs to be strengthened. Montenegro participates in the Regional Judicial Training Network established by the Regional Anti-Corruption Initiative as an initial step to the establishment of a framework for integrated anti-corruption legal education in the region.

Progress in developing a track record of investigation, prosecution and conviction in corruption cases remains limited, especially with regard to high-level corruption cases. There were no final convictions in high-level corruption cases. The first-instance verdict of abuse of office and bribery involving a former Mayor of Budva and a national MP was annulled on procedural grounds by the Court of Appeal and the case returned to the first-instance court for retrial. Two financial investigations are ongoing but, in general, financial investigations are not used systematically. There are still no corruption cases in which seizure of assets has been ordered.

Following the release of audio tapes of the ruling party's meetings, the prosecution, after initial hesitation, launched an investigation into the alleged abuse of state resources and violation of the right to equal employment for electoral purposes. So far no indictments have been issued. In addition to the prosecutorial investigation, parliament carried out an inquiry about the alleged abuse of public resources and violation of the right to equal employment. The parliamentary inquiry resulted in the adoption of a technical report without any concrete recommendations for establishing political responsibility. (*See also section 2.1 – Parliament.*)

Infiltration of organised crime in the public and private sectors is a serious cause for concern. The areas of construction and spatial planning, education, healthcare and public procurement continue to be extremely vulnerable to corruption.

Frequent changes to the relevant legislation, slow processing of high-profile cases of corruption and the quashing of verdicts hinder the effectiveness of the fight against corruption. There is no proactive attitude of law enforcement authorities to look into allegations of corruption, especially those involving high-level officials. A high rate of the investigations into reported corruption-related offenses never result in an indictment. The acquittal rates at first instance and in the appeal courts are high. Shortcomings with regard to the independence and accountability of the judicial system remain a serious matter of concern and hamper the fight against corruption.

Fundamental rights

Overall, Montenegro improved its respect for **international human rights**. It became a member of the UN Human Rights Council in January. It was reviewed under the second cycle of the Universal Periodic Review in January, during which it received 124 recommendations, of which it accepted 109 and took 15 under examination. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence was ratified in March 2013. The Constitution (Article 20) has yet to be aligned with Article 13 of the European Convention on Human Rights (ECHR), in relation to safeguarding the right to an effective remedy before the national authorities for violations of rights under the Convention. The ratification process for the Convention on Reduction of Statelessness is still pending. The implementation of international human rights standards needs to continue; the national legislation still requires further alignment.

Montenegro continued to cooperate with the **European Court of Human Rights** (ECtHR), including on ensuring national courts' compliance with the Court's case law. New training courses for judges and prosecutors took place. The Court delivered judgments on six applications finding that Montenegro had violated rights guaranteed by the ECHR, most of them relating to the right to a fair trial and to an effective remedy. A total of 192 new applications have been submitted to the Court since September 2012, bringing the total of pending applications to 889.

With regard to the **promotion and enforcement of human rights**, the Protector of Human Rights and Freedoms (the Ombudsman) has received more staff, while the budget of the Ombudsman has been reduced for 2013. The parliamentary Committee for human rights and freedoms endorsed the Ombudsman's reports on abuse of children via internet; on prisons conditions and on protection from discrimination – as well as the Ombudsman general report for 2012. The Committee's cooperation with the Ombudsman and civil society continues to be good.

Following the formation of the new government in December, a new Ministry for Human and Minority Rights was created, independent from the Ministry of Justice. The capacity of the Ministry, as well as of the Ombudsman, still needs to be strengthened. Shortcomings persist in the protection of human rights by judicial and law enforcement authorities, especially as regards vulnerable groups.

In the field of **prevention of torture and ill-treatment** the law on the ombudsman remains to be amended to define the duties stemming from the institution's role as the national preventive mechanism. In February, three police officers were sentenced to seven months of imprisonment each for ill-treating a detainee in 2008; yet, the case was annulled by Podgorica High Court in June for procedural reasons and returned for a new trial. Processing of such cases remains slow and impunity remains a matter of concern, especially in cases where members of law enforcement authorities are involved. The treatment of convicted persons and detainees needs to be brought in line with international standards.

The legal and policy framework governing the **prisons** system has improved. Accommodation capacity has been expanded. A special detention unit for juveniles and women has been set up. Facilities have been built to allow prisoners to work on the prison premises. Additional efforts are needed to increase the use of alternative sanctions, as well as to organise activities to contribute to socialisation and rehabilitation of detainees. A new amnesty law, passed in July, contributed to reduce prisons' overcrowding; however, the adoption of this law lacked a prior risk analysis and impact assessment.

Freedom of expression has continued to be ensured, e.g. with the recent start of more serious investigations into cases of violence against journalists and the pronouncement of verdicts in

some cases. Two final rulings found individuals guilty of violence against two reporters, in one case, and of endangering the safety of a journalist, in the other. In January, a former police officer was fined by a basic court for threatening and endangering the safety of a journalist; another police officer was charged with jeopardising the safety of an investigative journalist. Courts in Montenegro have been generally abiding by the case law of the European Court of Human Rights; training on its standards — given by the judicial training centre — continued. Still, the involvement of public officials, in particular police officers, in cases of intimidation and assaults against journalists remains a source of serious concern, as does the recent rise in cases of violence against journalists. All old and recent cases of threats and violence need to be thoroughly investigated and prosecuted.

Efforts to privatise state-owned print media have been unsuccessful. Concerns remain that the state is in breach of the law on the media, which prohibits the state from founding print media. Concerns persist also regarding possible state aid and advertising funding allocated to print media in 2012, which were not in line with public procurement rules and could jeopardise competitiveness on the media market. Some mainstream media have not established any self-regulation. Promotion and enforcement of professional and ethical standards remain a challenge for most media.

Montenegro continues to uphold **freedom of assembly and association**.

Freedom of thought, conscience and religion continues to be guaranteed and enforced; however, tensions persist between the Serbian and the Montenegrin Orthodox Churches, especially on property issues. The 1977 law on the legal status of religious communities still applies, while the adoption of the new law is pending.

Regarding **women's rights and gender equality**, in March, parliament ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. The first shelter for women and children victims of domestic violence was opened in Podgorica in December and is operated by a local NGO, with an initial support from the government. The 2013-2017 Gender Equality Plan and the implementation programme for 2013-2014 was adopted by the government in January and aims at eliminating gender discrimination in the labour market and ensuring better protection from domestic violence. While the formal requirement that women comprise at least 30% of candidates on electoral lists has been met, women remain under-represented in parliament and in managerial positions. Efforts are needed to ensure gender equality in the labour market.

Children's rights have been strengthened by the ratification of the Optional Protocol to the Convention on the Rights of the Child on the communications procedures, as well as by the introduction of provisions in the criminal code sanctioning sexual abuse, trafficking and forced marriage involving children. A new law on social and child protection was adopted in May, while an accompanying strategy followed in July; the new national action plan for children was also adopted in July. The Ministry of Labour and Social Welfare and the Ministry of Education launched the first national child protection database with a view to providing reliable data on the situation and needs of children.

The situation of the **socially vulnerable and/or persons with disabilities** has not improved. The amendments to the Law on spatial development, adopted in July, foresee some measures to improve access to buildings to persons with reduced mobility. Yet, overall access to buildings, including education and medical facilities, remains a concern. The law on prohibition of discrimination against persons with disabilities contains a number of shortcomings and needs to be amended. The financial support paid to employers for employing persons with disabilities is insufficiently protected against misuse. Monitoring and sanction mechanisms in this area remain insufficient.

In the area of **anti-discrimination policies**, the Ombudsman continued to promote the protection of all vulnerable social groups, despite its limited resources. The anti-discrimination law remains to be amended, to bring it in line with the *acquis*.

The government adopted a strategy for enhancing the quality of life of **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons for 2013-2018. The authorities fully supported the first Pride parade which took place in Budva in July. Yet, assaults on the participants showed a high level of homophobia in the country which needs to be addressed. The police charged 32 persons for indecent and reckless behaviour during the parade.

Labour and trade unions rights are generally respected; in July amendments to the law on representativeness were adopted, aiming at improving these rights. Bi-partite social dialogue remains unsatisfactory and the role of the Social Council is still limited. Fully transparent representation and the right to form new unions need to be ensured. Negotiations on the new general collective agreement are ongoing.

With regard to **property rights**, restitution of property, in line with Montenegro's legislation, is still slow, due to cumbersome procedures and a lack of administrative capacity. Displaced persons permanently resident in Montenegro still face discrimination with regard to access to land.

Montenegro continues to ensure respect for and the protection of **minorities** and cultural rights. Interethnic relations in the country continue to be good. However, the Minority Fund continues to operate with significant shortcomings, notably regarding the allocation of funds and proper implementation of projects.

As for the inclusion of **Roma**, Ashkali and Egyptians, the 2013 action plan to implement the strategy for improving the status of Roma and Egyptians in Montenegro was adopted by the government in January. Following the fire in the Konik camp in July last year, the government responded efficiently and provided the necessary assistance in cooperation with international stakeholders. All 800 persons who lost their homes have been re-housed in temporary mobile containers and connected to the electrical grid; concerns remain as regards the poor water supply in the camp. Vulnerable groups, including Roma, have been included in the law on social housing adopted by the parliament in July, requiring relevant local and national authorities to swiftly assume their responsibilities. Action plans for Roma integration in the municipalities of Bijelo Polje, Berane and Ulcinj have been finalised and adopted by the local assemblies.

Discrimination remains prevalent in access to employment and to social and healthcare. Based on the current electoral law, the Roma are underrepresented on the political level. Measures have been taken to facilitate education and employment, but drop-out rates and unemployment among Roma remain high, especially for women.

Since December 2012, there have been no working meetings of the Coordination Board in charge of overseeing the implementation of the strategy for finding durable solutions to the status of **internally displaced persons**. Some 58% of this group have applied for permanent or temporary residence, of which 37% acquired permanent residence as of May. Serious obstacles to obtaining status remain, including: problems with subsequent birth registration; the cost of obtaining documents; the situation of extremely vulnerable people; confusion over the legal provisions on the number of years in different residence categories which can be counted towards Montenegrin citizenship. The temporary decree on access to social and economic rights for displaced persons has been amended to prolong its validity until June 2014.

As regards **protection of personal data**, efforts need to be stepped up to ensure appropriate implementation of the relevant legislation. In September 2013 the Ministry of Interior

terminated a controversial agreement with a private telecommunications company, following a ruling that found the agreement in breach of data protection legislation. The right balance needs to be struck between the right to free access to information and the rules on protection of personal data.

Conclusion

Overall, Montenegro has made some progress in the area of the judiciary and fundamental rights. Transparency of the work of courts has improved and the backlog of court cases has fallen. Further steps have been taken with a view to rationalising the court network. The constitutional amendments aimed at strengthening judicial independence have been adopted. A single countrywide recruitment system for judges and prosecutors and an objective and merit-based promotion system have yet to be introduced. Measures need to be taken to strengthen accountability and integrity safeguards in the judicial system. The budget allocated to the judiciary is insufficient. The enforcement of civil and administrative decisions remains weak. As regards domestic handling of war crimes, Montenegro needs to make efforts to tackle impunity and to ensure that decisions of the Montenegrin judiciary on war crimes cases are in line with international humanitarian law, reflect the jurisprudence of the International Criminal Tribunal for the former Yugoslavia, and fully apply domestic criminal law. In the area of anti-corruption, the implementation of the relevant legislative framework has shown a number of shortcomings which require further legislative action. The capacity of supervisory institutions in charge of controlling political financing and conflict of interest needs to be enhanced. Corruption remains prevalent in many areas and continues to be a serious problem. Infiltration of organised crime groups in the public and private sector needs to be addressed. Increased efforts are needed with regard to the development of a credible track record of investigation, prosecution and conviction in corruption cases, including high-level cases. Annulments of first-instance verdicts in cases of corruption and organised crime give rise to concern. The number of final convictions remains low and no seizure or confiscation of assets has taken place yet in corruption cases. Serious consideration needs to be given to the reasons for a considerable share of investigations into corruption-related offences not resulting in an indictment. Some progress has been made in the area of fundamental rights, notably through the transposition of international instruments into national legislation. However, shortcomings persist in the protection of human rights by judicial and law enforcement authorities, particularly as regards vulnerable groups, especially the Roma, the lesbian, gay, bi- and transsexual population and disabled persons. Further efforts are needed to prevent and combat violence against women, in particular Roma women, and domestic violence. Old and recent cases of threats and violence against journalists have not been resolved yet and efforts to process them need to be stepped up. Further efforts are also needed to ensure appropriate implementation of data protection legislation.

4.24. Chapter 24: Justice, freedom and security

In the area of **migration**, a centre for migrants was built, but its opening has been delayed. In April, the government adopted the new action plan 2013-2014 for implementing the strategy for integrated migration management. Training on irregular migration continued. Readmission agreements entered into force with the Benelux and Slovakia, were ratified with Moldova and signed with Turkey and Serbia. Further efforts are required to ensure full alignment with the *acquis* in the field of legal migration, and to raise the authorities' awareness of the issues of mixed migration, integration of migrants and the protection of vulnerable groups in this area. A return agreement with Kosovo has yet to be signed. Preparations for aligning legislation with the *acquis* are moderately advanced.

The country faced a sharp increase in the number of **asylum** applications compared to previous years (1 529 in 2012, compared to 239 in 2011). While most of the applicants leave

before the end of the procedure, current reception capacity needs urgent expansion. The opening of the new asylum-seekers centre has been further delayed, pending adoption by parliament of a number of relevant by-laws. One person has been granted refugee status and subsidiary protection has been extended to four persons. The temporary reception solutions require alignment with minimum standards, especially with regard to healthcare; risks remain regarding the exposure of the persons hosted there to smugglers and to illegal activities. Additional training is required for border police, on the principle of non-refoulement and humanitarian law standards, and on the state asylum appeals' commission, to improve the evidence base for decisions. Lack of interpreters remains an obstacle, as well as the poor inter-service coordination in the field of asylum. An electronic database of asylum applications has yet to be established. Preparations for alignment with the *acquis* are at an early stage; the law on asylum is only partially aligned, including as regards the limitation of subsidiary protection to six months.

On **visa policy**, the country has only partially aligned its legislation with the EU positive and negative lists contained in Regulation 539/2001. Decisions on the temporary suspension of the visa requirements for the nationals of Azerbaijan, Armenia and Kazakhstan have been adopted for the summer season. An electronic link between the diplomatic and consular missions and the national visa system of the Ministry of Foreign Affairs and European Integration has not yet been established. Visas for entering Montenegro are not yet in line with EU standards and lack security features. Preparations for alignment with the *acquis* are at an early stage.

In the field of **external borders and Schengen**, the new integrated border management (IBM) strategy for the period 2013-2016, and action plan, were adopted in December 2012. The strategy is not entirely in line with the EU concept of IBM. In July, the law on border control was amended with the aim of further alignment with the EU *acquis*. All border crossing points (BCPs) have been connected to a single information system for performing checks on persons, vehicles and documents, connected to the national and Interpol databases. Two new patrol boats have been purchased for the 'blue border'. Capacity-building and training continued. The EU Common Core Curriculum has yet to be integrated — at all levels — into those of the Montenegrin border police. Relations with neighbouring countries improved; joint patrols with Bosnia and Herzegovina, Serbia and Albania were carried out. Preparations to establish a common contact point with Bosnia and Herzegovina and with Kosovo are ongoing. Talks are ongoing with Kosovo and with Bosnia and Herzegovina on an agreement on the state border. A similar one with Serbia is being currently negotiated. Montenegro and Bosnia and Herzegovina have agreed to close the unauthorised border crossing points between the two countries.

Overall, the legislative framework on border control is only partly aligned with the *acquis*. Considerable efforts are needed to increase effectiveness of the border police and to modernise the BCPs' equipment (including for border checks) and border premises. The security of the green and blue border needs to be strengthened, e.g. border controls at the main port of Bar. The border police training system needs to be enhanced, and to raise awareness of issues relating to migration policy, asylum and the fight against trafficking in human beings. Inter-agency cooperation requires improvement, especially with customs; under the current provisions, the border police do not have separate investigative powers. Measures to fight corruption and other criminal activities at the border, especially smuggling, need to be reinforced.

In the area of **judicial cooperation in civil and criminal matters**, a new law on international legal assistance in criminal matters was adopted by parliament in July. As regards judicial cooperation in criminal matters, the legal framework for fighting serious and organised crime

at regional and international level was reinforced: in July, two agreements, to facilitate the implementation of the European Conventions on Extradition, and on Mutual Legal Assistance in Criminal Matters, were signed with Italy. In June 2013, the judicial training centre became an observer in the European Judicial Training Network; the administrative capacities of the department for international legal cooperation of the Ministry of Justice were strengthened. Additional efforts are needed to align the national legislation with the *acquis*, including on the principle of mutual recognition of judgments and probation decisions. A new law on international private law has not been adopted yet. The cooperation agreement with Eurojust is yet to be signed, pending additional information on the protection of personal data and a fact finding visit, to take place in October 2013.

As regards **police cooperation and the fight against organised crime**, the country has continued to actively engage at international and regional level, including by ratifying cooperation agreements with the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, and the Czech Republic. An operational agreement with Europol has not been concluded yet.

Implementing legislation for the law on internal affairs was adopted. Some of the law's provisions challenge the role of the prosecutor in investigations and others allow the Minister to intervene in police work. Independent and transparent oversight of the police, a fair recruitment policy and a robust complaints' mechanism have yet to be established. Ethical standards of the police need to be strengthened by a proactive policy, in order to, *inter alia*, prevent the participation of police officers in criminal activities. The amendments to the criminal code adopted in July include provisions on cybercrime, on anti-money laundering and terrorism financing and on trafficking in human beings, aiming at further aligning definitions with international standards.

Frequent staff moves in middle management positions seriously affect the institutional memory of the police. Specialised units dealing with organised crime are understaffed, including at regional level. Only foreign witnesses were accommodated under the witness protection scheme in 2012 and 2013, for short periods of time. There is no secure platform to store and exchange data between law enforcement agencies.

The special division of the prosecutor's office continued to lead the fight against organised crime; however, its role in this respect should be further enhanced, as well as its cooperation with the police. The classified version of the organised crime threat assessment (OCTA) has been made available to the prosecutor since December 2012. Yet, its special investigative team is still disconnected from other law enforcement agencies in term of access to relevant databases, and this hampers its effectiveness. As regards the track record of cases against organised crime, some verdicts were given in drug smuggling cases; only a few cases refer to more complicated crimes such as trafficking in human beings and money laundering. Following annulments of first-instance judgments for procedural reasons in high-profile cases, serious concerns persist regarding the lack of legal certainty.

Financial investigations are still not used systematically. Their overall number, as well as that of *seizures of assets*, remains low, due to weak administrative capacity and insufficient inter-agency cooperation.

As regards *cybercrime*, the amendments to the criminal code include provisions to further align the definition of child pornography with international standards. The police continue to provide a 24/7 contact point. Still, the capacity of the prosecutor's office and of the police in this area is weak, including as regards monitoring e-sites. Establishing a training scheme for law enforcement agencies on cybercrime is essential.

In the fight against *money laundering*, implementing legislation to the law on prevention of money laundering and terrorist financing was adopted in December 2012; yet, a new law remains to be adopted, aiming at strengthening the legal framework and, particularly, the sanctioning system. The administration for the prevention of money laundering and terrorist financing conducted an organisational and legal review, adopting strategic objectives and identifying legal shortcoming. The current IT system is outdated and needs to be modernised. Montenegro adopted amendments to the criminal code aiming to address Moneyval recommendations of December 2012. The number of suspicious transactions reported remains low; additional guidelines and training are needed for the relevant organisations to raise awareness of their reporting obligations.

The new national strategy for combating *trafficking in human beings* for the period 2012-2018 and the relevant 2012-2014 action plan have been adopted. The criminal code has been amended to improve the identification of victims and introduce offences such as trafficking in human body parts. The code also includes slavery and forced marriage as criminal offences resulting from trafficking in human beings. A comprehensive, multi-disciplinary and victim-oriented approach to trafficking still needs to be developed; identification of victims, as well as investigations, prosecutions and convictions against human beings traffickers need to be improved.

Overall, organised crime remains a serious concern in Montenegro.

As regards the **fight against terrorism**, the 2013-2014 action plan for implementing the strategy for the prevention and suppression of terrorism, money laundering and terrorism financing was adopted in July. Work to provide secure arms storage in Brezovik has been completed. Recent amendments to the criminal code also aimed at addressing Moneyval recommendation in the field of terrorism financing. Overall, the national legislation still needs to be aligned with the *acquis* in this area. Preparations for alignment with the *acquis* are at an early stage.

On **cooperation in the field of drugs**, a strategy for the prevention of drug abuse (2013-2020), identifying priority areas similar to those of the EU drugs strategy, was adopted together with an action plan (2013-2016). The law on prevention of drug abuse was amended in July with a view to further aligning it with EU standards. Montenegro participated in dismantling drug rings in cooperation with Interpol, Europol, EU Member States' and neighbouring countries' police forces and the United States. Awareness-raising activities on drugs were conducted in schools and at local level.

The country is on the main Balkans drug trafficking routes and continued and sustained proactive efforts by the police and customs administration are needed to detect and seize narcotics at the borders, including at all ports. A significant amount of cannabis was seized; the amounts of heroin and cocaine seized remain very low. A focal point for cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) has been appointed and has provided training to staff in the Ministry of Health and the Ministry of Interior. Yet, the country is not ready for participating systematically in the cooperation with the centre, due to a lack of human and budget resources. Preparations for alignment with the *acquis* are moderately advanced.

A special unit for international **customs cooperation** and European integration has started work. The customs administration has not yet produced the documents needed to implement the new computerised transit system. The port of Bar was provided with technical equipment to improve checks on containers.

Additional efforts are needed to enhance checks on containers, fight corruption in the customs administration and ensure closer coordination between customs and police. Particular

attention is overall required to prevent trafficking of drugs and other illegal goods through the harbours and along the coast.

For measures against **counterfeiting of the euro**, see *Chapter 32 — Financial control*.

Conclusion

Overall, Montenegro has made some progress in the area of justice, freedom and security. Alignment with the *acquis* in the field of legal migration, asylum and visas is still at an early stage; the reception centres for foreigners and that for asylum seekers need to be made operational without further delay. Considerable efforts are required to improve the surveillance capacity, technical equipment and infrastructure at the borders, and to raise the authorities' awareness of mixed migration and improve their response to it. Montenegro is actively involved in regional and international police and judicial cooperation. Some progress was made in the fight against drugs trafficking; however more efforts are needed in term of drug seizure. A track record of proactive investigations and final convictions in other organised crime areas has yet to be established, including confiscation of criminal assets. Additional efforts are needed to improve coordination between law enforcement agencies and the judiciary and to increase capacity to carry out financial investigations in connection with complex criminal investigations. The annulment of first-instance verdicts in cases of organised crime gives rise to serious concern.

4.25. Chapter 25: Science and research

In the area of **research and innovation policy**, Montenegro continued to participate actively in the Seventh EU Research Framework Programme (FP7) and took several measures and actions in line with the European Research Area and Innovation Union to strengthen capacity building.

As regards research cooperation under the Seventh EU Research **Framework Programme** (FP7), Montenegro actively promoted cooperation and was successful in a number of capacity building programmes. The Ministry of Science successfully contributed to the European Science Days in September 2012 and organised several actions to promote science and research in particular among young people. Montenegro also continued to participate successfully in COST and EUREKA actions. Montenegro expressed its interest in being associated in the next EU research and innovation framework programme 'Horizon 2020' (2014-2020) and started preparing for this. Further efforts are necessary to engage more in EU collaboration projects and involve SMEs in the research and innovation chain.

As regards Montenegro's integration into the **European Research Area** (ERA), several actions were taken. In December 2012, the strategy on scientific research activities 2012–2016 was notably amended, introducing new instruments and bringing national research funding more in line with the EU research priorities. Several measures have been taken to strengthen human capital building and encouraging mobility of researchers. Montenegro also contributed to the Innovation Union by creating the first scientific and technological park in Montenegro on Agri-food and started planning science parks in other areas to stimulate cooperation between academia and industry.

Conclusion

Good progress has been made in the area of science and research. Further efforts are needed to address the challenges of the next research and innovation programme 'Horizon 2020' and contribute to the Innovation Union. Overall, preparations in this area are well on track.

4.26. Chapter 26: Education and culture

In the field of **education, training and youth**, amendments to the Law on Primary Education, the Law on Vocational Education, the Law on Gymnasiums and the General Law on Education were adopted by the parliament in July 2013. An initiative for traineeships for graduates aims at facilitating the transition from education to the labour market. Enrolment policies and purpose of vocational education and training are being examined by the Ministry of Education. The necessary rulebooks have been adopted, together with methodological documents, to implement the law on the National Qualifications Framework. This needs to be cross-referenced with the European Qualifications Framework to complete this process. An inter-departmental working group formed by the Ministry of Education completed an analysis of Montenegrin students' results in the international PISA test in February and drafted recommendations on improving the quality of education. A memorandum of understanding was signed in May 2013 on the participation of Montenegro in the centralised actions under the EU Lifelong Learning Programme. Overall, the quality of school and university education needs to be improved. The mismatch between education qualifications and the labour market needs to be addressed. Montenegro has started to address its priorities in this area.

In the area of **culture**, a memorandum of understanding was signed in October 2012 allowing Montenegro to participate in the Europe for Citizens programme. In February 2013, Montenegro became a member of European Film Promotion. Preparations in this area are well on track.

Conclusion

Some progress has been made in the area of education and culture. A good level of legal alignment has been reached. Non-discrimination between EU and Montenegrin nationals needs to be guaranteed by the date of accession and alignment with the EU Directive on the Education of the Children of Migrant Workers assured. Role and purpose of the various levels and type of education and training need to be further clarified and linked more to other sectors. Overall, preparations are advanced.

4.27. Chapter 27: Environment and climate change

As regards the **environment**, in the area of *horizontal legislation* the parliament amended the law on environmental impact assessment (EIA) in order to ensure alignment with the EIA Directive. Further efforts are needed to implement the EIA and Strategic Environmental Assessments (SEA) Directives. As concerns access to environmental information, the Environmental Protection Agency opened a regional office and 'Aarhus centre' in Berane in September 2012. Montenegro adopted in August amendments to the criminal code which furthered the alignment with the *acquis* on environmental crime. There were no developments as regards environmental liability. Public consultations with civil society and other stakeholders need to be further strengthened.

Under the Law on *Air Quality*, the implementing legislation on activities that affect air quality has been adopted. The national strategy for air quality management and the action plans for 2013–2016 have been adopted. Administrative capacity in the area of air quality needs to be strengthened.

In the area of *waste management*, Montenegro adopted implementing legislation on waste oil handling, on handling PCB-containing equipment and waste, on handling and processing construction waste, and on conditions and methods of disposal of cement asbestos waste. While the legislative framework is advancing, further efforts are needed for its implementation and enforcement. The development of an integrated waste management system remains at an early stage, with waste continuing to be disposed of in open sites or in multiple unauthorised dumps. Cooperation among state and local authorities needs to be

strengthened. New investments in this area are needed. They should in particular focus more on waste separation and recycling.

No progress has been made in the area of *water quality* in the past years, which remains to be an issue of concern. Significant efforts to develop water quality legislation in line with the *acquis* and to implement it are needed. Monitoring networks and river basin water management plans remain at an early stage of development, as does the infrastructure for waste water treatment.

In the field of *nature protection*, the government adopted its second report on the implementation of the biodiversity strategy and action plan (2010-2015), for the period 2011-2012. Amendments to the law on nature protection have yet to be adopted by parliament. Essential articles of the Habitat and Birds Directives are still missing. Development of scientific data for the designation of protected areas and future Natura 2000 sites remains at an early stage. Administrative capacity needs to be considerably strengthened, especially with regard to scientific work, inspection and enforcement.

There were some developments in the area of *industrial pollution control and risk management*. During the reporting period, the first IPPC licences were issued for the landfills ‘Livada’ in March, ‘‘Mozura’’ in April and ‘Progas Nikšić’ in July.

In the field of *chemicals*, the implementing legislation on classification, labelling and packaging of chemicals and the legislation on details of contents and method of keeping the list of classified chemicals was adopted. A strategic plan in the field of chemicals needs to be developed.

In the area of *noise*, pursuant to the law on protection against noise, 12 municipalities have made noise maps of their areas.

In the area of *civil protection*, Montenegro is preparing to join the EU Civil Protection Mechanism. The Sector for Emergency Management also improved its 24/7 English-speaking contact point for the Emergency Response Centre of the European Commission.

In the area of **climate change**, a comprehensive national climate policy and strategy needs to be developed and substantial efforts are required to fully integrate climate considerations into sectorial policies and strategies.

Montenegro regularly associated itself with the EU positions in the international context. It has also previously associated itself with the Copenhagen Accord, but has not yet put forward a mitigation commitment by 2020. Montenegro should consider making mitigation commitments consistent with those of the EU and its Member States for the purpose of the post-2020 climate agreement to be reached by 2015. It is also invited to start reflecting on its climate and energy framework for 2030, in line with the EU Green Paper ‘*A 2030 framework for climate and energy policies*’.

Regarding alignment with climate *acquis*, Montenegro is at an early stage. Five installations were identified for the purpose of future implementation of an emissions trading system. Significant efforts are required to strengthen the country’s monitoring, reporting, and verification capacity.

Montenegro participated regularly in climate work under the Regional Environmental Network for Accession (RENA). Efforts are needed to raise awareness at all levels and to promote cooperation between all relevant stakeholders.

Regarding **administrative capacity**, training was provided in line ministries. The constant reliance on temporary staff and the high staff turnover remain to be an issue of concern. Administrative capacity needs to be strengthened in all areas of the environment and climate

change. Significant capacity and interinstitutional cooperation and coordination are needed in all areas and in particular in the areas of water quality and climate change.

Conclusion

Montenegro has made little progress in the areas of *environment and climate change*. Considerable efforts and more strategic planning are needed to ensure alignment with and implementation of environment and climate *acquis*. Further efforts are also needed to strengthen administrative capacity and interinstitutional cooperation. Resources remain limited and substantial investments are needed. Cooperation with civil society organisations needs to be further strengthened. The lack of political priority and adequate financing, and limited awareness of environment and climate requirements, continues to hamper progress in this field. Preparations in these areas are still at an early stage.

4.28. Chapter 28: Consumer and health protection

In the area of **consumer protection**, a second annual report on implementation of the national programme of consumer protection (NPCP) for the period July 2011 to June 2012 was adopted in September 2012. A third NPCP (2012–2015) was adopted in October 2012, with an annual action plan for its implementation. The supervision of implementation of the NPCP is ensured by an inter-institutional commission established in March 2013. In April 2013, a rulebook on the internal organisation of the administration for inspection affairs was adopted. Substantial efforts were taken to raise awareness of consumers on their rights through an intensive media campaign. In September 2013, a new IT platform was launched serving as a central hub for distributing consumer protection information and hosting software for management of notifications on dangerous products at national level and a new IT facility for registering and handling consumer complaints by the various bodies and NGOs. In May 2013, the Consumer Protection Centre of Montenegro (CEZAP) filed the first collective lawsuit on behalf of 250 persons to protect their rights as regards consumer credits. Empowering of consumer protection NGOs remains crucial. Montenegro has started to address its priorities in this area.

As regards *product safety-related issues*, in the first quarter of 2013, there were 471 inspections in the area of product safety. These uncovered 13 irregularities related to placing dangerous products on the market. Three different types of dangerous goods were found and measures taken. Revision of the current legislation on general product safety and on market surveillance is ongoing. Montenegro has started to address its priorities in this area.

As regards *non-safety-related issues*, a law on consumer credits was adopted by the parliament in July 2013. In the first quarter of 2013, the market inspection authority conducted 1 752 checks and established 1 012 irregularities. A law on consumer protection is being drafted, with a view to completing legal alignment with several EU directives. Preparations in this area have started.

In the area of **public health**, implementation of e-health continues to be slow.

As regards *tobacco control*, enforcement of the law limiting the use of tobacco products, which extends the areas where smoking is prohibited, continues to pose challenges, especially in restaurants. Montenegro has started to address its priorities in this area.

In the area of *communicable diseases*, a national strategy for control of antibiotic resistance for the period 2012–2016 and a national programme of tuberculosis control 2013–2017 were adopted in September and December 2012, respectively. A Commission assessment mission on communicable diseases in the framework of the enlargement process took place in June 2013, providing follow-up recommendations to optimise the communicable diseases system. A strategy for the preservation and improvement of reproductive and sexual health

2013–2020 accompanied by an action plan 2014–2015 was adopted in June 2013. Preparations in this area are on track.

As regards *blood, tissues, cells and organs*, a rulebook on the method, procedure and medical criteria for determining the death of persons whose body parts may be taken for transplantation for treatment purposes was adopted in September 2012. A number of implementing regulations in the field of blood have been drafted. Further legal alignment and administrative capacity-building is required. Preparations in these areas are on track.

In the area of *patients' rights in cross-border healthcare*, preparations still need to start.

In the field of *mental health*, training needs and training plans and programmes for front-line staff providing mental health services have been identified but not yet implemented. Efforts are needed to introduce community-based mental health services as an alternative to institutionalisation. Montenegro has started to address its priorities in this area.

Efforts have been made in the field of *drug abuse prevention* as regards substitution treatment for drug abusers and the establishment of a substance abuse register that may help monitor needs for treatment and care. In the field of *health inequalities*, activities are ongoing to improve the health of Roma. In the field of *nutrition*, a national initiative to reduce salt intake was adopted in December 2012. Efforts to raise awareness of early detection of breast and cervical *cancer* have continued and screening programmes are being started. However, further efforts are required to establish appropriate capacity building. A national strategy to prevent harmful use of *alcohol* and alcohol-related disorders 2013–2020 and a national strategy for *rare diseases* 2013–2020 were adopted in October 2012 and in January 2013, respectively. Montenegro has started to address its priorities in this area.

Conclusion

Some progress has been made in the field of consumer and health protection. Legal alignment and administrative capacity-building need to continue. Support for consumer non-governmental organisations is needed. Overall, preparations in these areas are moderately advanced.

4.29. Chapter 29: Customs union

As regards **customs legislation**, the customs tariff was updated in line with the 2013 version of the EU Combined Nomenclature. Some specific provisions on duty relief and suspension of duties were also introduced. The adoption of amendments to the Customs Law remains pending in parliament.

As regards Montenegro's **administrative and operational capacity**, the customs administration successfully participated in the 'systems for the electronic exchange of pre-arrival data' (SEED) project. A new electronic system for risk analysis has been put into operation. Customs' operational capacity to apply simplified procedures and security measures needs to be further enhanced. Additional efforts are needed to enhance management capacity through greater involvement of the business side of the customs administration in leading IT developments. A customs administration business strategy for 2013-2015 has been adopted. This will need to be followed by the development of a new IT strategy. Understaffing of the IT units is an issue which requires constant attention. The implementation of a code of ethics for customs officers and administration employees was launched at the beginning of 2013. Further efforts are still needed to strengthen internal control in order to effectively prevent and detect corruption and other misconduct. The customs enforcement of intellectual property rights and the provision of laboratory services have to be enhanced and training activities need to be further developed. Introductory steps have been taken to put in place and implement a customs transit system compliant with the

new computerised transit system (NCTS). This lays the foundations for future membership of the Common Transit Convention.

Conclusion

Some progress has been achieved in the area of customs union. Efforts for further alignment with the *acquis* need to continue. In the areas of administrative and operational capacity, the customs administration needs to complete the development of its IT strategy and to enhance the training structure and capacity. Preparations for possible accession to the Convention on a Common Transit Procedure have started but need to be stepped up. Overall, preparations in the field of customs union are moderately advanced.

4.30. Chapter 30: External relations

In the field of the common commercial policy, Montenegro continued to fulfil the commitments it assumed with its accession to the World Trade Organisation (WTO). It was accepted as an observer to the WTO Government Procurement Committee in October 2012. The law on foreign trade in dual-use goods needs to be further aligned, in particular with a view to improving control mechanisms.

As regards bilateral agreements with non-EU countries, Montenegro is still negotiating bilateral free trade agreements with Belarus and Kazakhstan in line with its obligations under the Free Trade Agreement with Russia. A free trade agreement with EFTA came into force in full in November 2012. An economic cooperation agreement with Croatia was signed in February 2013. Montenegro continued to play an active role in CEFTA.

As regards development policy and humanitarian aid, a new director in the Ministry of Foreign Affairs has been appointed to set up relevant administrative structures and collect information on development activities. Humanitarian contributions are still decided on a case-by-case basis without a legislative framework.

Conclusion

Some progress has been made in the area of external relations. Montenegro continued to fulfil the commitments it assumed with WTO accession and is setting up a mechanism for control of dual-use goods. Efforts in the area of development and humanitarian aid are still at an early stage. Overall, preparations in the area of external relations are on track.

4.31. Chapter 31: Foreign, security and defence policy

The regular **political dialogue** between the EU and Montenegro continued to cover foreign policy issues. (*Concerning relations with other enlargement countries and Member States, see Political criteria, 2.3 — Regional issues and international obligations.*)

As regards the **common foreign and security policy (CFSP)**, Montenegro aligned itself, when invited, with all relevant EU declarations and Council decisions (100% alignment). (*As regards the International Criminal Court, see Political criteria, 2.3 — Regional issues and international obligations.*)

There are still 28 countries that have not yet recognised Montenegro since it gained independence in 2006.

Montenegro implemented all UN Security Council and EU *restrictive measures*.

As regards *non-proliferation*, Montenegro is participating in some, but not all, international export control arrangements and instruments concerning non-proliferation of weapons of mass destruction. Compliance with international commitments on small arms and light weapons (SALW), including the aims of the EU strategy on SALW, is continuing with the aid of national laws and control systems. In July 2013, the government adopted the strategy for

control and reduction of small arms and light weapons and ammunition and its implementing action plan for the period 2013-2018.

With regard to *cooperation with international organisations*, in October 2012 Montenegro presented its third Annual National Programme, launching the third cycle of the NATO Membership Action Plan (MAP). Montenegro continues to participate in the international operations ISAF in Afghanistan and UNMIL in Liberia.

As regards *security measures*, Montenegro continued its work on practical arrangements necessary to comply with the Council Decisions on information security, including the handling of classified information.

As regards the **common security and defence policy (CSDP)**, and in particular *civil and military crisis management*, in December the government adopted a decision to send members of the police force to the UN peacekeeping mission in Cyprus (UNFCYP). Following the EU Political and Security Committee's invitation to make a contribution to the European Union Military Training Mission to Mali (EUTM Mali), Montenegro provided military equipment. Montenegro has been participating in the EU operation ATALANTA in Somalia.

Conclusion

Montenegro has made some progress in the field of foreign, security and defence policy. Montenegro has aligned with all EU declarations and Council Decisions and has continued to actively contribute to regional stability. Overall, preparations in the area of foreign, security and defence policy are on track.

4.32. Chapter 32: Financial control

In the area of **public internal financial control (PIFC)**, the Ministry of Finance adopted implementing legislation on both financial management and control (FMC) and internal audit (IA) in October 2012, including instructions on FMC reporting, a decree on mandatory establishment of IA units at central and local level, and instructions on the content and method of reporting on IA operations. A new code of ethics for civil servants was introduced in January 2013. A rulebook on quality assurance in IA for the public sector was published in February 2013 and a rulebook on quality assurance on FMC was published in June 2013.

The Central Harmonisation Unit organised its first IA certification programme, resulting in certification of public sector internal auditors, some of which hold an international certificate. Internal auditors have been appointed at central and local level. However, a critical shortage of internal audit staff remains. In June 2013, the government took the decision to fill all vacant internal audit posts in the ministries linked to the management of EU funds by the end of September 2013. As regards FMC, FMC managers were appointed at central level and local level. Overall, there is insufficient delegation of responsibilities from senior officials, which hinders the move towards genuine managerial accountability. Risk management needs to be further developed.

In the area of **external audit**, constitutional amendments adopted in July 2013 extended functional immunity to the State Audit Institution (SAI) Senate members. The SAI has started to implement the new strategic development plan for the period 2012-17. The SAI implemented the 2012 audit programme, with 15 audits and conducted 13 audits on political party financing issuing in total 92 recommendations. In July 2013, parliament elected the new SAI president as well as a member of the SAI Senate. One position on the SAI Senate remains unfilled. The current audit capacity of the SAI, with around 35 audit posts filled, is very limited. Performance audit work is at a very early stage. Amendments to the law on the SAI enhancing its financial independence have yet to be adopted. Even though the law on audit of

EU funds of February 2012 provides for the separation of the SAI from the audit authority, they have yet to be fully segregated in practise.

In the area of **protection of the EU's financial interests**, Montenegro appointed a contact point for cooperation with the European Commission at the Ministry of Finance in January 2013. The system of reporting on irregularities in the management of the EU funds has improved following the appointment of irregularity officers and the establishment of reporting procedures.

As regards **the protection of the euro against counterfeiting**, the National Centre for the Fight against Counterfeiting, the National Centre for Analysis of Banknotes and the National Centre for Analysis of Coins were set up. A protocol of cooperation between the Police Directorate and the Supreme Prosecutor's Office has been concluded. Montenegro continues to participate in the Pericles programme.

Conclusion

There has been further progress in the area of financial control. Montenegro needs to further improve the application of the managerial accountability principle. Further strengthening the financial independence and capacity of SAI is also required. Overall, preparations in this area are moderately advanced.

4.33. Chapter 33: Financial and budgetary provisions

As regards **traditional own resources**, the **VAT resource** and the **GNI resource**, Montenegro is not yet aligned with the *acquis* in these areas. (*For progress in the underlying policy areas, see Chapters 16 — Taxation; 18 — Statistics; 29 — Customs union; and 32 — Financial control.*)

As regards **administrative infrastructure**, the administrative capacity of the institutions in the underlying policy areas indirectly affecting the own resources system (customs, taxation, statistics, financial control) needs to be further strengthened. A fully operational coordination structure will be needed to ensure correct calculation, accounting, forecasting, collection, payment and control of own resources and reporting to the EU on the implementation of the EU's own resources rules. Preparations in this area are at an early stage.

With regards to tools to fight tax evasion and fraud and to reduce the size of the informal economy, the government's efforts in 2013 to continue fiscal consolidation resulted in a new set of measures. The focus of the action against the informal economy is the labour market, excisable products and VAT collection.

Conclusion

No progress has been made as regards financial and budgetary provisions. In due course, a coordinating body needs to be set up to steer pre-accession preparations in the own resources field. The administrative framework for applying the own resources rules needs to be established and the capacity to correctly apply the rules needs to be built up. Overall, preparations in this area are at an early stage.

Statistical Annex

STATISTICAL DATA Montenegro

Basic data	Note	2001	2008	2009	2010	2011	2012
Population (thousand)	1)	615	628	630	616b	618	621
Total area of the country (km ²)	2)	13 812	13 812	13 812	13 812	13 812	13 812
National accounts							
	Note	2001	2008	2009	2010	2011	2012
Gross domestic product (GDP) (million euro)		1 295	3 086	2 981	3 104	3 234	3 346f
GDP (euro per capita)	3)	2 113	4 908	4 720	5 011	5 211	5 386f
GDP (in Purchasing Power Standards (PPS) per capita)		:	10 700	9 685	10 143b	10 546	10 863f
GDP per capita in PPS (EU-27 = 100)		:	43	41	41	43	42e
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		1.1	6.9	-5.7	2.5	3.2	-0.5f
Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	:	:	:	:	:
Real unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:
Labour productivity per person employed (GDP in PPS per person employed, EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors (%)							
Agriculture and fisheries	4)	11.9	9.3	10.0	9.3	9.5	:
Industry	4)	20.8	13.5	13.6	14.8	13.6	:
Construction	4)	3.9	7.7	6.5	5.9	5.8	:
Services	4)	63.5	69.5	69.9	70.1	71.0	:
Final consumption expenditure, as a share of GDP (%)		100.2	113.8	106.2	105.6	106.5	108.2f
Gross fixed capital formation, as a share of GDP (%)		17.5	38.2	26.8	21.1	18.4	17.9f
Changes in inventories, as a share of GDP (%)		5.9	2.4	0.4	1.7	1.1	:
Exports of goods and services, relative to GDP (%)		38.4	39.5	32.1	34.7	40.2	40.3f
Imports of goods and services, relative to GDP (%)		61.9	94.0	65.4	63.1	66.2	67.3f
Industry							
	Note	2001	2008	2009	2010	2011	2012
Industrial production volume index (2010=100)		110.5	125.6	85.1	100.0	89.8	83.5
Inflation rate							
	Note	2001	2008	2009	2010	2011	2012
Annual average inflation rate (CPI, % change on previous year)		23.0	9.2	3.4	0.5	3.1	:
Balance of payments							
	Note	2001	2008	2009	2010	2011	2012
Balance of payments: current account total (million euro)		:	-1 535	-830	-710	-573	-588
Balance of payments current account: trade balance (million euro)		:	-2 025	-1 322	-1 267	-1 306	-1 389
Balance of payments current account: net services (million euro)		:	371	401	464	589	612
Balance of payments current account: net income (million euro)		:	46	5	-22	26	54
Balance of payments current account: net current transfers (million euro)		:	73	85	114	117	135
of which government transfers (million euro)		:	9	5	16	6	18
Net foreign direct investment (FDI) (million euro)		:	582	1 066	552	389	462
Foreign direct investment (FDI) abroad (million euro)		:	-74	-33	-22	-12	-21
of which FDI of the reporting economy in EU-27 countries (million euro)		:	-6	-2	-19	9	-17
Foreign direct investment (FDI) in the reporting economy (million euro)		:	656	1 099	574	401	482
of which FDI of EU-27 countries in the reporting economy (million euro)		:	379	782	287	205	223
Public finance							
	Note	2001	2008	2009	2010	2011	2012
General government deficit/surplus, relative to GDP (%)		:	-0.4	-3.6	-4.9	-5.4	-4.0
General government debt relative to GDP (%)		:	29.0	38.2	40.9	46.0	50.9
Financial indicators							
	Note	2001	2008	2009	2010	2011	2012
Gross foreign debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:
Gross foreign debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	5)	:	512	:	:	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	6)	:	1 209	:	:	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)	7)	:	2 339	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)	8)	:	2 754	2 358	2 152	1 911	1 814
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)		:	9.4	9.4	9.6	9.7	9.5
Deposit interest rate (one year), per annum (%)		:	4.1	3.9	3.3	3.0	3.2

euro exchange rates: average of period - 1 euro = ... national currency		1.000	1.000	1.000	1.000	1.000	1.000
Effective exchange rate index (2005=100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		:	337	397	416	303	348

External trade

	Note	2001	2008	2009	2010	2011	2012
Value of imports: all goods, all partners (million euro)		:	2 530	1 654	1 657	1 823	1 821
Value of exports: all goods, all partners (million euro)		:	416	277	330	454	367
Trade balance: all goods, all partners (million euro)		:	-2 114	-1 377	-1 327	-1 369	-1 454
Terms of trade (export price index / import price index)		:	:	:	106.0	100.9	95.8
Share of exports to EU-27 countries in value of total exports (%)		:	62.2	48.3	55.9	50.1	28.6
Share of imports from EU-27 countries in value of total imports (%)		:	42.7	37.5	37.7	39.2	38.4

Demography

	Note	2001	2008	2009	2010	2011	2012
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		5.5	4.1	4.4	2.9b	2.2	2.5
Infant mortality rate: deaths of children under one year of age per 1000 live births		14.6	7.5	5.7	6.7b	4.4	4.4
Life expectancy at birth: male (years)		:	72.8	72.9	73.5	:	:
Life expectancy at birth: female (years)		:	78.1	77.6	78.4	:	:

Labour market

	Note	2001	2008	2009	2010	2011	2012
Economic activity rate (20-64): share of population aged 20-64 that is economically active (%)		:	:	:	:	:	:
* Employment rate (20-64): share of population aged 20-64 in employment (%)		:	:	:	:	:	:
Employment rate male (20-64) (%)		:	:	:	:	:	:
Employment rate female (20-64) (%)		:	:	:	:	:	:
Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)		:	:	:	:	:	:
Employment by main sectors (%)							
Agriculture		3.1e	7.6e	6.5e	6.2	5.6	5.7
Industry		25.8e	15.3e	14.0e	13.9	13.0	11.7
Construction		2.1e	6.1e	6.7e	6.1	6.0	5.7
Services		69.1e	71.0e	72.8e	73.9	75.5	76.9
Unemployment rate: share of labour force that is unemployed (%)		21.2	16.8	19.1	19.7	19.7	19.7
Share of male labour force that is unemployed (%)		:	15.9	18.0	18.9	19.5	19.3
Share of female labour force that is unemployed (%)		:	17.9	20.4	20.7	20.0	20.3
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		:	:	:	:	:	43.7
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)		:	13.4	15.6	15.5	15.7	15.6

Social cohesion

	Note	2001	2008	2009	2010	2011	2012
Average nominal monthly wages and salaries (national currency)	9)	211.0	416.0	463.0	479.0	484.0	487.0
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI/HICP) (2000=100)		91.6	195.2	255.0	262.1	256.6	248.1
* Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)		:	:	:	:	:	:

Standard of living

	Note	2001	2008	2009	2010	2011	2012
Number of passenger cars per 1000 population		161.0	298.5	283.9	267.1b	278.2	279.9
Number of subscriptions to cellular mobile telephone services per 1000 population		639.6	1 611.5	2 496.5	2 260.3b	1 875.0	1 595.0

Infrastructure

	Note	2001	2008	2009	2010	2011	2012
Density of railway network (lines in operation, per 1000 km ²)		18.1	18.1	18.1	18.1	18.1	18.1
Length of motorways (km)		:	:	:	:	:	:

Innovation and research

	Note	2001	2008	2009	2010	2011	2012
Spending on human resources (public expenditure on education in% of GDP)		:	:	:	:	:	:
* Gross domestic expenditure on R&D in% of GDP		0.7	1.2	1.1	:	0.4	:
Percentage of households who have Internet access at home (%)		:	:	:	:	51.4	55.0

Environment

	Note	2001	2008	2009	2010	2011	2012
* Greenhouse gas emissions, CO2 equivalent (tons, 1990=100)		:	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)		:	:	:	:	:	:
Electricity generated from renewable sources in% of gross electricity consumption		:	:	:	:	:	:
Road share of inland freight transport (% of tonne-km)		60.3	43.0	64.1	52.5	43.1	51.0

	Note	2001	2008	2009	2010	2011	2012
Energy							
Primary production of all energy products (thousand TOE)		:	1 136	622	1 267	791	:
Primary production of crude oil (thousand TOE)		:z	:z	:z	:z	:z	:
Primary production of hard coal and lignite (thousand TOE)		:	1 136	622	1 267	434	:
Primary production of natural gas (thousand TOE)		:z	:z	:z	:z	:z	:
Net imports of all energy products (thousand TOE)		:	-25	-18	-20	-408	:
Gross inland energy consumption (thousand TOE)		:	1 111	606	1 268	1 201	:
Electricity generation (thousand GWh)		2.5	2.8	2.8	4.0	2.7	:

	Note	2001	2008	2009	2010	2011	2012
Agriculture							
Agricultural production volume index of goods and services (producer prices, previous year=100)		107.0	:	:	:	:	:
Total utilised agricultural area (thousand hectare)	10)	518p	516	516	516	516	:
Livestock: cattle (thousand heads, end of period)	11)	178e	106	101	96	87	85
Livestock: pigs (thousand heads, end of period)	11)	21e	10	12	11	21	18
Livestock: sheep and goats (thousand heads, end of period)	11)	244e	209	200	198	232	230
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)	12)	194e	160	152	143	202	159
Crop production: cereals (including rice) (thousand tonnes, harvested production)	13)	4p	3	3	17b	18	:
Crop production: sugar beet (thousand tonnes, harvested production)		:	:	:	:	:	:
Crop production: vegetables (thousand tonnes, harvested production)	14)	:	:	:	151	150	:

: = not available
 :z = not applicable
 b = break in series
 e = estimated value
 f = forecast
 p = provisional
 * = Europe 2020 indicator

The balance of payments sign conventions are used for FDI. For FDI abroad a minus sign means investment abroad by the reporting economy exceeded its disinvestment in the period, while an entry without sign means disinvestment exceeded investment. For FDI in the reporting economy an entry without sign means that investment into the reporting economy exceeded disinvestment, while a minus sign indicates that disinvestment exceeded investment.

Footnotes:

- 1) 2010, estimated on the results of the 2011 population census
- 2) Total land includes: agricultural area, forests and non-agricultural land. For private agricultural holdings, data on areas are estimates based on data Overall Cadastre.
- 3) 2010-2011, excluding Financial Intermediation Services Indirectly Measured (FISIM). FISIM is calculated separately and at the total level of GVA. Value of FISIM for 2001 is -1885 (in 1.000 EUR).
- 4) 2001, 2008, 2009, data according to Nace Rev. 1.1. ; 2010-2011, data according to Nace Rev. 2.
- 5) As of 31 December. Instead of standard M1, data under national definition of M0 are provided. Monetary base (M0) is comprised of banks' deposits with the CBM (settlement account and reserve requirement account) and the estimated amount of cash in circulation. Monetary aggregate M1 is comprised of M0, demand deposits by the non-banking sector held with banks and the CBM, in EUR and other currencies, excluding deposits by the Central Government. Monetary aggregate M11 comprises M1 increased by the Central Government's demand deposits in EUR and other currencies. Monetary aggregate M2 includes M1 and the non-banking sector's time deposits with banks, in EUR and other currencies, excluding deposits by the Central Government. Monetary aggregate M21 comprises M2 increased by the Central Government's time deposits in EUR and other currencies.
- 6) As of 31 December. Instead of standard M2, data under national definition of M11 are provided.
- 7) As of 31 December. Instead of standard M3, data under national definition of M21 are provided.
- 8) 2008 - 2012, the revision of data on loans in accordance with the new definition of loans is in progress. The complete revised data will be available by the end of 2013.
- 9) 2001, wages in German marks (DEM).
- 10) 2001 - 2009, agricultural area includes: arable land, and area under pastures, fishponds and ponds; 2011, for private agricultural holdings, data on areas are estimates based on data Overall Cadastre.
- 11) 2001 - 2009 - Number of livestock in 1000, including enterprises and cooperatives and households.
- 12) 2001 - 2009, calculated net quantity in 1000 tonnes, including enterprises and cooperatives, and households.
- 13) Includes households, enterprises and cooperatives; from 2010, data includes all cereals (wheat, rye, barley, oats, grain maize, buckwheat); from 2000 to 2009 only data on wheat included.
- 14) 2011, includes households, enterprises and cooperatives.