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**Montenegro 2023 Report**

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# 1. INTRODUCTION

## 1.1. CONTEXT

Accession negotiations with Montenegro were opened in June 2012. To date, 33 negotiating chapters have been opened, of which three have been provisionally closed. Montenegro accepted the revised enlargement methodology focusing on: fundamental reforms, stronger political steer, increased dynamism and predictability of the process. Montenegro continued to broadly implement the Stabilisation and Association Agreement (SAA) and meetings of the joint bodies under the agreement took place at regular intervals.

Overall progress in the accession negotiations depends on progress in the area of rule of law, in line with the requirements set out in the Negotiating Framework as well as the revised methodology formally accepted by Montenegro at the Intergovernmental Conference held on 22 June 2021. Progress towards meeting the interim benchmarks set in the rule of law Chapters 23 and 24 will be key to achieve further progress in the negotiations overall. No further chapters will be provisionally closed before this milestone is reached.

The political commitment of the Montenegrin authorities to the strategic goal of European integration has been consistently stated as the key priority for the country. However, progress on EU accession reforms has largely stalled as Montenegro suffered from deep polarisation and political instability. The country was ruled by a caretaker government and while Parliament was unable to assemble a consistent majority. The absence of a functional Constitutional Court created uncertainties and legal discrepancies, including on the electoral processes. The presidential election run-off and parliamentary elections took place in April and June respectively. The constitution of the new parliament and the new government took place at the end of October 2023. Local elections took place in 14 municipalities.

The EU continued to provide essential and unparalleled technical and financial support. To address the energy crisis provoked by Russia's war of aggression against Ukraine, Montenegro and the Commission prepared an Energy Support Package, consisting of a focused national energy action plan and an immediate budget support programme providing EUR 30 million of grant financing to Montenegro. The EU also made available EUR 500 million to the region under the Western Balkans Investment Framework to respond to the crisis in the medium term.

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

Concerning **political criteria**, the reporting period was marked by tense and confrontational positions leading to a blockage of the political system.

The political situation was dominated by a caretaker government that did not have the confidence of the Parliament and a Parliament unable to assemble a clear and consistent

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<sup>1</sup> This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from the government of Montenegro, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. This also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law.

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

majority to take forward reforms. Moreover, the boycott by large sections of the Parliament affected its work.

There was no effective political dialogue and constructive engagement by political parties with a view to enhancing parliamentary accountability and government oversight. There was a lack of direction on EU accession issues, in particular following the resignation of the Minister of EU Affairs. On several occasions, the Government and/or the Parliament chose to ignore recommendations of the European Commission and/or the Venice Commission.

Adoption of the Act on Parliament that would regulate relations between the Parliament and the executive is pending.

Local elections in 14 municipalities (October 2022), presidential elections (March/April 2023) and parliamentary elections (June 2023) took place. The constitution of the new parliament and the new government took place at the end of October 2023. Election observation missions of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe monitored the presidential and parliamentary elections. These missions assessed both elections as peaceful and competitive despite some procedural shortcomings. The mandate of the Parliamentary Committee for a comprehensive electoral reform expired in July 2022 with no tangible results. The legal framework requires a comprehensive reform and harmonisation of election legislation, voting and candidacy rights, transparency, mechanisms of dispute resolution, and oversight of campaign finance and media. These, along with other issues, remain unaddressed. The absence of a functional Constitutional Court between September 2022 and February 2023 seriously affected electoral processes.

As regards **governance**, the government has carried out its duties in a caretaker capacity since August 2022 and with limited accountability, due to the inability of the political system to form a new government or proceed to early elections. Against the background of unclear rules governing the competences of a caretaker government, the government continued to adopt important decisions, and to dismiss and appoint key officials. Key positions continued to be filled on an acting basis. The lack of ministerial coordination remains a cause for concern. In February 2023, the caretaker government adopted its Annual Work Programme for 2023. Overall, transparency of governance remained an issue and the government frequently resorted to the procedural option of adopting decisions without formally holding a government session. Both Presidents in function during the reporting period refused to sign legislation adopted following the dissolution of the Parliament.

The role of **civil society** is recognised and promoted. However, the legal and institutional framework regulating cooperation between state institutions and civil society needs to be improved. Politicians – including at the highest level – frequently denigrated the work of civil society organisations and isolated cases of verbal attacks were reported. The Council for Co-operation of State Bodies and Non-Governmental Organisations has not resumed its work.

Montenegro is moderately prepared in the area of **public administration reform**. Overall, limited progress was made. A new public finance management reform programme was adopted and its implementation was started. By contrast, no changes were made to amendments to the civil service legislation that introduced relaxed qualification requirements and ample discretion for appointing authorities to dismiss heads of administrative bodies. The Parliament adopted amendments to the Law on local self-government to harmonise it with the Law on civil service, disregarding the Commission's recommendation. The relaxed requirements are a source of continuing concern for merit-based recruitment, competence and independence of civil servants. Continued staff changes in the public administration led to further loss of know-how on matters related to the EU accession process and an overall

slowing of the pace of reforms. The Parliament has yet to adopt amendments to the Law on access to information. Effective lines of accountability within the administration are still to be set up.

Montenegro remains moderately prepared to apply the EU *acquis* and European standards in the area of **judiciary and fundamental rights** but made limited progress overall. No progress was achieved in justice reform, the most challenging area of the rule of law to date. The judicial system continued to face a deep institutional crisis, resulting in weak leadership and management, lack of strategic vision and poor planning, affecting the country's ability to deliver justice. In addition, the system remains affected by issues of accountability, among other weaknesses. Montenegro continues to meet its obligations on fundamental rights under international human rights instruments and legislation. The Law on the Judicial Council and judges and the Law on State Prosecution Service remain to be amended in line with the EU *acquis* and European standards. Full and effective protection of journalists and other media workers continues to improve, yet tangible results on old cases of attacks have yet to be achieved.

Montenegro has achieved some level of preparation in the **fight against corruption**. Limited progress was achieved. Corruption, including high-level corruption, remains an issue of concern and is prevalent in many areas, including in state structures. Montenegro has not sufficiently upgraded its legislative and strategic framework for the prevention of and fight against corruption in line with the EU *acquis*, European and international standards. Several high-profile cases of corruption are under investigation. Montenegro still needs to demonstrate a stringent and unambiguous criminal justice response to this critical phenomenon. Limited progress was achieved in preventing corruption. The results of the Anti-Corruption Agency improved in quantitative terms. However, its independence, accountability, impartiality, and proactiveness should be further ensured. The Law on prevention of corruption should be improved.

As regards the **fight against organised crime and high-level corruption**, the Special Prosecution Office acted with alacrity in launching several high-profile investigations, that appear to point to a deep infiltration of corruption and organised crime into state structures, including at the top level of the judiciary and law enforcement. The justice system of Montenegro needs to demonstrate a strong, stringent, coherent and unambiguous response. Montenegro must further improve the track record of investigations, prosecutions, final verdicts and asset confiscation in the fight against organised crime and high-level corruption. A more deterrent and effective criminal sanctioning policy and criminal justice response needs to be enforced to avoid the perception of impunity. The effective and systematic use of financial investigations and asset seizure and confiscation needs to be improved. Efforts in this policy area should primarily target those sectors that are most vulnerable to corruption.

In the area of **fundamental rights**, the legislative and institutional framework is largely in place and Montenegro continues to largely meet its international obligations on human rights. However, additional efforts are needed to fully implement this framework. Changes to the existing legislation are also needed, in particular in the area of non-discrimination. The reporting period continued to be marked by polarisation and division. The most vulnerable groups in society (including Roma<sup>2</sup> and Egyptians, persons with disabilities, LGBTIQ persons) continued to be subjected to discrimination, hate speech and hate crime. The trend of

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<sup>2</sup> In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

increase in the number of femicides with insufficient follow-up by the authorities and cases of publicly expressed misogyny, gender-based violence and violence against children remains an issue of serious concern. Additional efforts need to be made to ensure effective implementation of legislation, access to justice, and enforcement of rights in administrative and judicial proceedings, in particular for vulnerable groups. Montenegro must step up its efforts to conduct efficient, effective and independent investigations to address police torture, violations, and illegal use of coercive measures.

Montenegro has a pluralistic and diverse media landscape and has some level of preparation in the area of **freedom of expression**. Overall, limited progress was achieved. In general, the authorities provided prompt and effective law-enforcement and institutional responses to new cases of violence against journalists. However, there was no effective judicial follow-up of old cases. The government involved civil society and media stakeholders in the drafting of new media legislation but failed to finalise the legislative proposals and present them to the Parliament. The authorities need to step up efforts to effectively address the pending recommendations of the ad hoc commission for monitoring violence against the media, particularly regarding important old cases. The RTCG, the national public broadcaster, continued to produce politically balanced content, including during election periods. Further sustained efforts are needed to meet the highest standards of media integrity and accountability, counter disinformation, and limit the effects of online harassment and hate speech. The media environment remains highly politically polarised, with uneven application of the journalistic Code of Ethics and professional standards. Credible and effective self-regulation mechanisms need to be set up to strengthen media integrity and professionalism.

On the **economic criteria**, Montenegro has made limited progress and is moderately prepared in developing a **functioning market economy**. The economic expansion continued at a robust pace in 2022, supported by private consumption and strong growth in tourism. Headwinds came from inflationary pressures on the back of higher global commodity prices. The current account deficit increased as both exports and imports expanded rapidly. An expansionary fiscal policy fuelled domestic demand and contributed to very high net wage growth. The budget deficit increased significantly and a comprehensive medium-term consolidation plan to address mounting fiscal challenges has not been developed. The labour market situation improved, but structural problems persist, including large regional disparities and gender gaps, informality and high youth and long-term unemployment. The banking sector remained well capitalised and liquid. The number of new businesses increased, but efforts to improve the business environment and the governance of state-owned enterprises slowed down due to political uncertainty.

Montenegro has made some progress and is moderately prepared to **cope with competitive pressure and market forces within the EU**. The education system faces numerous challenges, as shown by the results of international tests. Although public financing for research and development remains modest, some progress was made in attracting private investors. Efforts to advance a green and digital transition have continued, but large infrastructure gaps persist, as the administrative and financial capacity to identify, prioritise and implement major public investments remains limited, hampering the use of EU support. Despite some progress in the metallurgy sector and the good performance of tourism, efforts are needed to diversify Montenegro's narrow production base. The low value added of domestic products, the small size of local companies, and their low level of participation in exports represent obstacles to increasing the productivity and competitiveness of local firms.

Montenegro made progress on **statistical methodology** and transmission of data to Eurostat and the strategic framework for **financial control**. Montenegro should now focus on aligning

its statistics with the European System of Accounts and strengthening budget inspection and managerial accountability in public administration. Montenegro is moderately prepared / has a good level of preparation in the area of **public procurement**. In 2022, some progress was achieved in aligning with the EU *acquis* and in further improving the functioning of the electronic procurement system. In the coming year, Montenegro should focus on the effective implementation of legislation on public procurement and public-private partnership. It should also fully comply with EU public procurement rules in all cases, such as when awarding the concession to operate airports.

Regarding **good neighbourly relations and regional cooperation**, Montenegro remained committed to promoting good bilateral relations with other enlargement countries and neighbouring EU Member States. Montenegro is generally an active participant in regional cooperation.

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

The **internal market** cluster is key for Montenegro's preparations to meet the requirements of the EU's internal market and is of high relevance for possible early integration measures and the development of the Common Regional Market. Progress was achieved on market surveillance, accreditation and standardisation; intellectual property rights and the adoption of a new national comprehensive strategy on intellectual property; State aid transparency; banking; and consumer and health protection. Montenegro should now focus on aligning its legislation with the EU *acquis* on standardisation; strengthening the Employment Agency; continuing to align with the EU Services Directive; enforcing the new postal market rules; stepping up progress on developing qualifications for regulated professions; accelerating progress on electronic company registration, capital movements and payments, including on the acquisition of property rights; adopting a new company law and a corporate accounting law; further aligning its legislation with the EU *acquis* on intellectual property; adopting the roadmap concerning the closing benchmarks in the area of competition and State aid and further progress on State aid cases including complex ones; ensuring consumer protection and health protection; and implementing the laws aligning its legislation with the EU *acquis* in the insurance and capital markets sector.

The **competitiveness and inclusive growth** cluster has significant links to Montenegro's Economic Reform Programme. Progress was made on tobacco control, pensions, industrial policy, the operationalisation of the Innovation Fund, taxation, and trade facilitation. In the area of economic and monetary policy, work to implement the action plan for alignment with the EU *acquis* is ongoing. Montenegro should now focus on independence of the media sector and adoption of laws on audiovisual media; alignment with the EU *acquis* on value added tax; coordination of work on economic and monetary issues; labour law and the anti-discrimination law, safety at work; assessing industrial policy and drafting a new policy, research and innovation, education and training and implementing EU-compatible computerised transit system.

The **green agenda and sustainable connectivity** cluster has significant links to Montenegro's Economic Reform Programme, the Commission's Economic and Investment Plan and the Green Agenda for the Western Balkans. Progress was made in creating a day-ahead energy market and on port state control, but progress was limited concerning environment and climate change. Montenegro should now focus on the strategy for green transition in the energy sector, including just transition plans for a phase-out of the power plant in Pljevlja; adoption and implementation of the railway law; revision of the Transport

Development Strategy and significantly stepping up efforts on waste management, water and air quality, nature protection and climate change, including by adopting the National Energy and Climate Plan without further delay.

**The resources, agriculture and cohesion** cluster comprises policies linked to EU Structural funds and Investment funds and developing the capacities to assume the responsibilities of a future EU Member State. Progress was made in the area of agriculture and rural development through the adoption of a new Strategy, food and fisheries and aquaculture, regional policy and structural instruments, financial and budgetary provisions. Montenegro should now focus on starting the implementation of the IPARD III programme, accelerate legislative alignment in the area of agriculture and rural development as well as fisheries and aquaculture, upgrade food-establishments and food safety controls whilst continuing vaccination plans for rabies as needed; EU cohesion policy requirements building capacity for the handling of Instrument for Pre-accession Assistance programmes under indirect management; and rules of administration for the own resources system.

In the **external relations** cluster, Montenegro continued to fully align with all EU common foreign and security policy (CFSP) positions, declarations and common positions, including sanctions. It also continued to implement measures under the Common Regional Market based on EU rules, including by cooperating under the Central European Free Trade Agreement (CEFTA) and the Regional Cooperation Council.

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

In the area of **migration**, legal labour migration to Montenegro continued to increase. In 2022, 29 319 temporary residence and work permits were issued, mainly for seasonal workers. In 2022, 8 519 migrants were registered who had crossed the border illegally, a twofold increase compared with 2021, reflecting regional trends. A total of 8 320 people registered an intention to request asylum, but only 175 actually lodged an asylum request and 9 persons were granted an international protection status. Montenegro continues to host the highest number of Ukrainian nationals in the Western Balkans, both in absolute figures and proportionally to its population (1%). The EU-Montenegro readmission agreement with EU Member States continued to be implemented satisfactorily. Montenegro and the EU signed a new status agreement in May 2023, enabling European Border and Coast Guard Agency (Frontex) deployments anywhere on the territory of Montenegro. Steps were taken to further align Montenegro's visa policy with the one of the EU, although further efforts are needed in this regard. Montenegro must continue its efforts to cope with migratory pressure, by developing its international cooperation on readmission, raising its capacity to prosecute migrant smuggling networks; and setting up a modern migrant data collection system. The economic citizenship scheme was. The investor citizenship scheme was phased out at the end of 2022.

### 1.3 STATE OF PLAY OF THE ACCESSION NEGOTIATIONS

CLUSTERS	Chapters / areas	Date chapter opened / closed with interim or closing benchmarks
<p>Fundamentals</p> <p><i>All chapters open</i></p>	<p>23-Judiciary and fundamental rights</p> <p>24-Justice, freedom, security</p> <p>5-Public Procurement</p> <p>18-Statistics</p> <p>32-Financial control</p> <p>...Economic Criteria</p> <p>...Functioning of democratic Institutions</p> <p>...PAR</p>	<p>December 2013</p> <p>December 2013</p> <p>December 2013</p> <p>December 2014</p> <p>June 2014</p> <p>-</p> <p>-</p>
<p><b>Internal Market</b></p> <p><i>All chapters open</i></p>	<p>1-Free movement of goods</p> <p>2-Freedom of movement for workers</p> <p>3-Right of establishment and freedom to establish services</p> <p>4-Free movement of capital</p> <p>6-Company Law</p> <p>7-Intellectual property rights</p> <p>8-Competition</p> <p>9-Financial services</p> <p>28-Consumer and health protection</p>	<p>June 2017</p> <p>December 2017</p> <p>December 2017</p> <p>...</p> <p>June 2014</p> <p>December 2013</p> <p>March 2014</p> <p>June 2020</p> <p>June 2015</p> <p>December 2014</p>
<p><b>Competitiveness and inclusive growth</b></p> <p><i>All chapters open ch.25 and 26 provisionally closed</i></p>	<p>10-Information society and media</p> <p>16-Taxation</p> <p>17-Economic and monetary policy</p> <p>19-Social policy and employment</p> <p>20-Enterprise and industrial policy</p> <p>25-<i>Science and research</i></p> <p>26-<i>Education and culture</i></p> <p>29-Customs union</p>	<p>March 2014</p> <p>March 2015</p> <p>June 2018</p> <p>December 2016</p> <p>December 2013</p> <p>December 2012 (opened and closed - no closing benchmarks);</p> <p>April 2013 (opened and closed – no closing benchmarks)</p> <p>December 2014</p>
<p><b>Green Agenda and Sustainable connectivity</b></p> <p><i>All chapters open</i></p>	<p>14- Transport policy</p> <p>15- Energy</p> <p>21-Trans-European Networks</p> <p>27-Environment and climate change</p>	<p>December 2015</p> <p>December 2015</p> <p>June 2015</p> <p>December 2018</p>
<p><b>Resources, Agriculture and cohesion</b></p> <p><i>All chapters open</i></p>	<p>11-Agriculture and rural development</p> <p>12-Food safety, veterinary, phytosanitary services</p> <p>13- Fisheries and aquaculture</p> <p>22-Regional policy and coordination of structural instruments</p> <p>33-Financial and budgetary provisions</p>	<p>December 2016</p> <p>June 2016</p> <p>June 2016</p> <p>June 2017</p> <p>December 2014</p>
<p><b>External Relations</b></p> <p><i>Both chapters open ch.30 provisionally closed</i></p>	<p>30-<i>External relations</i></p> <p>31- Foreign, security &amp; defence policy</p>	<p>March 2015 – June 2017 provisionally closed</p> <p>June 2014</p>

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

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

#### **2.1.1 Democracy**

Montenegro suffered from deep polarisation and division, which was manifested in tense confrontational positions between politicians unwilling to end the political stalemate, being even prepared to escalate the constitutional crisis to achieve short-term partisan gains. This led to a blockage of the political system. The political situation was dominated by a caretaker government lacking the necessary political legitimacy and a Parliament unable to assemble a consistent majority to take forward reforms. The absence of a functional Constitutional Court led to uncertainty and legal discrepancy. Presidential and Parliamentary elections took place, as well as local elections in 14 municipalities. Election observation mission of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) monitored the Presidential and Parliamentary elections. These missions assessed both elections as peaceful and competitive despite procedural shortcomings. The mandate of the Parliamentary Committee for a comprehensive electoral reform produced no tangible results. The boycott by large sections of the Parliament further affected its work.

#### **Elections**

Local elections in 14 municipalities (October 2022), presidential (March/April 2023) and parliamentary elections (June 2023) took place. OSCE/ODIHR election observation missions monitored the presidential and parliamentary elections and assessed both as peaceful and competitive despite some procedural shortcomings. The mandate of the Parliamentary Committee for a comprehensive electoral reform expired in July 2022 with no tangible results. The legal framework still requires a comprehensive reform and harmonisation of election legislation, voting and candidacy rights restrictions, transparency, mechanisms of dispute resolution, and oversight of campaign finance and media. These, along with other issues, remain unaddressed. The absence of a functional Constitutional Court affected electoral processes. The constitution of the new parliament and the new government took place at the end of October 2023.

The mandate of the Parliamentary Committee for a comprehensive electoral reform expired on 31 July 2022. No progress was made in following up on pending OSCE/ODIHR recommendations and crucial issues concerning electoral legislative reform, voter registry, financing of political entities and electoral campaigns, residence registers, code of election campaign ethics, and proposals to strengthen the professionalism and transparency of the work of the State Election Commission (SEC) and the Anti-Corruption Agency (ACA).

In the absence of overall reform, the SEC carried out improvements in areas within its sole competence, and increased the overall transparency of its work. However, the SEC's politicisation prevents it from performing its role as independent election administration body. In particular in the run-up to the first round of the presidential elections, the SEC took legally questionable decisions led by its politically appointed members.

On 23 October 2022, local elections took place in 14 municipalities. The Constitutional Court (CC) was without a quorum during most of the local election process; as a result, the full and effective legal protection of voting rights was not guaranteed. The final election results in some municipalities (Plav, Podgorica and Pljevlja) could only be published in March 2023, after the CC dismissed all pending complaints. Two municipalities (Budva and Kolasin) published final election results with appeals still pending at the CC.

The elections in the municipality of Savnik are not yet completed. as Municipal Election Committee (MEC) members cannot agree on the continuation of the elections at a polling station. The Basic State Prosecutor's Office in Pljevlja formed 30 cases against 38 persons on election disruption charges. After investigation, the Prosecutor's Office submitted indictments against 30 persons to the competent court. The Pljevlja Prosecutor's Office started initial investigations against 37 persons for the criminal offense of certifying false statements. On 5 March 2023, local elections took place in the municipality of Tuzi without major irregularities.

On 20 June 2023, the Ombudsman of Montenegro issued a statement supporting the complaint of the Union of the Blind that most MECs did not guarantee an equal, secret and dignified voting process for persons with disabilities, even though in March 2022, the SEC had revised relevant by-laws and instructed all MECs accordingly.

Presidential elections took place in two rounds, on 19 March 2023 and 2 April 2023. In the run-up to the first round, SEC rejected the nomination of one presidential candidate, citing contradictory information on his citizenship and permanent residence, following a procedure not provided for by the law. The concerned candidate filed a lawsuit against the SEC for violation of his voting rights and discriminatory treatment. In April 2023, the Agency for Personal Data Protection and Free Access to Information decided that the SEC had acted against its mandate and ordered it to destroy all documents relevant to the case in point that it had received from the Serbian SEC. The sequence of these events led to inconsistent practice by the SEC in relation to presidential and parliamentary elections. Overall, the SEC ensured transparency, but it did not permit observers to verify signatures, claiming personal data protection. During the electoral period, only one SEC session was broadcast live.

The CC dismissed seven complaints filed before the first round of the presidential election as inadmissible and rejected four. The Basic State Prosecutor's Office in Podgorica is investigating criminal complaints made by dozens of citizens stating that their signatures in support of presidential candidates were forged. There were no complaints after the first and second rounds of voting.

The Serbian Orthodox Church in Montenegro publicly called on its followers to vote for one political side. A key civil society election observer, the non-governmental organisation (NGO) Centre for Monitoring and Research (CEMI), received death threats. Several polling stations were not accessible for persons with disabilities. Women were underrepresented in the election administration.

The OSCE/ODIHR deployed an international election observation mission, (IEOM) including observers embedded from the Parliamentary Assembly of the Council of Europe (PACE) and from the European Parliament. For the second round, the OSCE/ODIHR did not send any short-term observers. Two local NGOs deployed observers in nearly all polling stations across the country.

According to the OSCE/ODIHR's preliminary conclusions, both rounds were peaceful and competitive and respected freedoms of assembly and expression. However, most long-standing OSCE/ODIHR recommendations related to the need for comprehensive reform and harmonisation of election legislation, voting and candidacy rights restrictions, transparency, mechanisms of dispute resolution, and oversight of political party campaign finance and media remain valid.

The legal framework lacks sufficient regulation, for example on the grounds for annulment of election results by the court, the procedures for the tabulation of results, and the second round of the presidential election. The SEC implemented provisional solutions, addressing

legislative gaps, and overall, the process was appropriately managed. The media landscape was polarised along political lines and media outlets remained highly vulnerable to internal and external influence from corporate and political interests.

On 17 March 2023, one day after having dissolved the Parliament, President Dukanović called early parliamentary elections for 11 June 2023. On 27 June 2023, the Constitutional Court unanimously repealed the amendments to the Law on the President from December 2022, which had been the precondition for dissolving the Parliament. The Ministry of Interior published the voter register of 543 599 citizens with a delay.

The parliamentary elections of June 2023 were competitive and well run, despite taking place against the background of a protracted institutional and constitutional crisis. The formation of a new government took place on 31 October 2023. It is important that the new government is able and committed to taking forward EU-related reforms.

The OSCE/ODIHR observation mission of the parliamentary elections took place in similar circumstances as the mission to observe the presidential elections. Two local NGOs deployed observers to most polling stations across the country. For the first time, observers for the Union of the Blind systematically monitored the accessibility and voting material for persons with disability at 505 polling stations. Its findings were that most MECs did not provide appropriate accessibility for persons with disability. The preliminary conclusions of the international election observation mission were similar to those published after the presidential elections.

Two political parties submitted several complaints to various MECs on discrepancies between the number of people who exercised their right to vote, the number of ballots, and the number of control coupons. The Kolasin and Cetinje MECs decided to repeat the elections in one polling station each. The SEC annulled the decision of the MEC Kolasin. On 8 July 2023, the elections were repeated in Cetinje.

SEC declared the final results of the parliamentary elections on 14 July, which is not in accordance with the legal deadline for announcing election results, (15 days after the elections).

The inclusion of women in political life remains low. In the new Parliament there will be only 17 women, (21%), the lowest percentage since the introduction of the quota system, under which one fourth of the electoral ticket must be reserved for representatives of the underrepresented gender.

There are no new developments in the political and judicial follow-up to the alleged misuse of public funds for party political purposes in the 2012 ‘audio recordings affair’ Regarding the alleged electoral fraud case “the ‘envelope affair’” in 2016, in August 2023 the High Court confirmed the indictment against former Podgorica Mayor Stijepovic.

## **Parliament**

The political situation was dominated by a caretaker government lacking the necessary political legitimacy and a Parliament unable to assemble a clear and consistent majority to take forward reforms. Moreover, the boycott by large sections of the Parliament further affected its work. The overall accountability of the political system was undermined by the shortcomings of the Montenegrin Constitution, which lacks clarity and presents loopholes, and by the lack of a legislative framework regulating the competences of a caretaker government or a dismissed Parliament. This added to an overall sense of political and institutional unpredictability.

There was no effective political dialogue and constructive engagement by political parties to enhancing parliamentary accountability and government oversight. There was a lack of activity on EU accession issues, in particular following the resignation of the Minister of EU Affairs. Furthermore, on various occasions, the Parliament adopted legislation that contradicted recommendations of the European Commission and/or the Venice Commission. The Parliament continued to strengthen its transparency by establishing some citizen-oriented services.

Adoption of the Act on Parliament that would regulate relations between the Parliament and the executive is pending.

Since the government of Prime Minister (PM) Abazović had a no-confidence vote in August 2022, the Parliament has been unable to reach the necessary majority to appoint a new PM and government. Despite this, and even following the Parliament's dissolution in March 2023 and the announcement of early parliamentary elections, the Parliament continued operating, adopting legislation and taking occasional decisions, as if the government was not acting in a caretaker capacity. Since the autumn of 2022, Members of Parliament (MPs) from DPS and its partners have boycotted most plenary sessions. Presidents Dukanović and Milatović refused to sign the laws that the Parliament adopted after its dissolution.

Upon completion of consultations on the formation of a new government in September 2022, President Dukanović proposed that the Parliament be dissolved, but on 30 September 2022, the Parliament refused to act in accordance with this request. Instead, with the publicly declared purpose of facilitating the formation of a new government in November, an ad hoc majority composed of three political blocks adopted amendments to the Law on the President that circumvent the applicable constitutional provisions on the prerogatives of the President. According to the amendments, within 30 days from the date of a no-confidence vote, and after conducting political consultations, the President is 'obliged to propose as PM-designate the candidate who has the support of the majority of the total number of MPs' or the candidate with 'dominant parliamentary support'. If the President does not comply, the Parliament is given the authority to nominate a PM-designate by simple majority. Using his constitutional prerogatives, President Dukanović returned the Law to the Parliament for review.

In November 2022, President Dukanović referred the amendments to the Council of Europe's Venice Commission for an urgent opinion. The Venice Commission assessed that a smaller parliamentary majority than prescribed for constitutional revisions should not have adopted these amendments. Nevertheless, in December 2022, the same majority adopted the amendments again, and gave the mandate to MP Lekic to form a new government. However, the same political blocks failed to find an agreement on the formation of the new government. Due to controversies over the amended law, which the opposition considered unconstitutional, the opposition boycotted most sessions from October 2022 until April 2023. In June 2023, the Constitutional Court unanimously repealed the controversial amendments to the Law on President.

The Parliament held 20 sittings (10 sittings during ordinary sessions and 10 sittings during extraordinary sessions). It adopted 133 acts (75 laws, 56 decisions and two resolutions). In December 2022, the Parliament adopted the 2023 Budget Law.

Following the June parliamentary elections, on 27 July 2023 the new Parliament held its first session and verified the mandates of the new MPs. The new Parliament speaker was voted into position on 30 October 2023.

As regards the Parliament's **legislative role**, due to the boycott, most laws were adopted by simple majority (41) with most opposition MPs not participating in the discussion. The

Parliament repeatedly sought to make changes to systemic laws via administrative procedures and without broader consultations. On various occasions, the Parliament adopted legislation that contradicted recommendations from the European Commission and/or the Venice Commission. Montenegro did not adopt some important pieces of legislation, such as the Law on Government and the Law on Parliament, which are needed to improve overall governance.

Communication between the Parliament and the executive, and with independent institutions, was challenging. In some instances, the government failed to deliver its opinions on legislative initiatives introduced by MPs. A particular relevant case – due to its fiscal impact – was the draft Law on compensation for former recipients of the benefit for mothers of three or more children. Opinions on major legislative proposals were adopted without discussion, most notably by the Committee on Economy, Finance and Budget. There was a lack of parliamentary activity on EU accession issues or coordination with the relevant ministries. The Committee on European Integration held its last session in July 2022.

The **oversight function** of the Parliament was limited. The Rules of Procedure provide that the PM's hour takes place once a month. However, only two such sittings were held during the reporting period. Parliamentary committees held 27 consultative and nine control hearings. As part of their supervisory activities, the committees considered numerous reports that independent bodies submitted to the Parliament in accordance with the law. There is no uniform practice in or approach to conducting parliamentary hearings or reviewing reports and proposed legislation.

The Parliament continued working on promoting the principle of **openness and transparency**. The public submitted 37 requests for free access to information to which the Parliament responded. The Parliament received 99 citizen submissions and 15 e-petitions. Of these e-petitions, one resulted in a consultative hearing before the Committee on Health, Labour and Social Welfare. The Parliament introduced accessibility features on its website, adapting its content to blind and partially sighted persons. In cooperation with the European Parliament, in November 2022, the Parliament organised the second 'Citizens' Assembly' to enhance the general public's participation in the decision-making and policymaking process. The Parliament also organised the 'Simulation of Parliament' for high school students, as well as a Youth Parliament session. No reports on violations of the Code of Ethics were submitted to the Committee on Human Rights and Freedoms in the reporting period.

The Parliament continued to further strengthen the control and supervisory functions and the capacity of the legal harmonisation service. On the proposal of the Administrative Board and at the request of the Special State Prosecutor's Office, in April 2023, the Parliament adopted a decision to allow the initiating of criminal proceedings against five opposition MPs due to alleged abuse of their official position. The Parliament's cross-party Women's Club continued its active role.

## **Governance**

Since the no-confidence vote in August 2022, the government has carried out its duties in a caretaker capacity and with limited accountability, due to the inability of the political system to form a new government or proceed to early elections. Against the background of unclear rules governing the competences of a caretaker government, the government continued to adopt important decisions and to dismiss and appoint key officials. Furthermore, in November 2022 the caretaker PM decided to dismiss the caretaker Ministers of Defence and of Foreign Affairs, and the Parliament endorsed his decision. In December 2022, the caretaker Minister of European Affairs resigned. All vacancies were filled *ad interim*. The lack of ministerial coordination remains a cause for concern. Following the June parliamentary elections, the

new government was established on 31 October.

In October 2022, the government dismissed the acting Director of the National Security Agency (ANB) on the grounds of alleged non-compliance with the Law on ANB, and appointed a new acting Director. In March 2023, following the arrests of police officials suspected of being connected to criminal groups, the government decided to dismiss the Police Director on the grounds of 'functional responsibility'. The Police Director brought a lawsuit against the government before the Administrative Court. In July 2023, the Court overturned the government's decision and established that the dismissal decision violated existing regulations. Shortly afterwards, the government adopted a new decision terminating again the Police Director's mandate, following which the Police Director submitted a new lawsuit. The Court is yet to decide, but it rejected as unfounded the request to postpone the enforcement of the dismissal decision until a final legal decision is made.

The 35 diplomatic representative offices of Montenegro are led by 13 ambassadors and 22 *chargés d'affaires*. Some of them were appointed by the caretaker government.

In February 2023, the caretaker government adopted its Annual Work Programme for 2023. In the reporting period, it adopted 56 law proposals, 37 of which were accompanied by Regulatory Impact Assessment (RIA) form. It passed 35 decrees, 26 of which with a completed regulatory impact assessment RIA form. In November 2022, the caretaker government adopted a decision to set up negotiating working groups for all *EU acquis* chapters except for chapter 12.

Overall, **transparency of governance** remained an issue. However, the government took some positive steps including the regular, proactive publication of information on all expenditure from the state budget. The government continued to broadcast its sessions live. However, the government frequently resorted to the procedural option of adopting decisions without formally holding a government session. When new legislation needs to be adopted, an inclusive consultation process must be followed. This process should under all circumstances uphold the legal safeguards against undue political influence on independent public and regulatory institutions. Any legal changes to their composition and governance should avoid potentially disruptive action that could affect the functioning of the management bodies of those institutions.

As **for local governance**, the new Podgorica local government was only formed in April 2023, six months after the October 2022 local elections. Meanwhile, the incumbent Municipal Assembly and local government exercised their functions in a caretaker capacity (see section on elections). The mayor of Budva was arrested in April 2023 on suspicion of creating a criminal organisation and drug smuggling. To address this situation and enable the formation of a new local government pending the finalisation of electoral results, in December 2022, an ad hoc majority of three political blocks adopted amendments to the Law on local self-government by simple majority. According to the amendments, if the Municipal Election Commission does not announce the final election results within 60 days, the mandate of the local parliament in power would end by force of law. It is highly questionable whether these amendments are compatible with the Constitution. Thus, President Dukanović returned the Law to the Parliament for review. However, the Parliament adopted it again in March 2023. As for other pieces of legislation adopted following the dissolution of the Parliament, both President Dukanović and his successor refused to sign them.

At the end of December 2022, the parliamentary majority in the Podgorica Assembly adopted a decision to increase the salaries of civil servants and state employees by up to 30%. Women's political participation remained low at local level with the exception of Podgorica

and Budva. In Podgorica, the newly appointed mayor and the president of the local assembly are women. In Budva, most of the members of the new Municipal Assembly are women.

### **Civil society**

The role of civil society is recognised and promoted. However, the legal and institutional framework regulating cooperation between state institutions and civil society still needs to be improved. Politicians – including at the highest level – frequently belittled the work of civil society organisations (CSOs) and isolated cases of verbal attacks were reported, when, for example, they criticised the work of the government. Recommendations from last year’s report remain largely valid.

The Council for Co-operation of State Bodies and Non-Governmental Organisations has not resumed its work. The government’s financial support for CSOs is regulated by a set of rules ensuring transparency and external evaluation. However, Montenegro needs to strengthen ministries’ capacity for strategic planning, monitoring and evaluation of support provided to CSOs.

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

The overall legal and institutional framework on freedom of expression, association and assembly is in place, but important pieces of legislation are lacking or need revision. The tax law provides some incentives to philanthropy, but its notion of ‘public interest’ is more limited than in the Law on NGOs, therefore restricting tax incentives. Montenegro still needs to align its legal framework on access to information with the EU *acquis*. Under the current law, public institutions could restrict the access of CSOs to key policy decisions by classifying this information. Montenegro has a Law on volunteer work, promoting voluntary work for state institutions to gain professional experience. However, a broader legal framework is needed to promote the free use of time, knowledge and skills for the benefit of volunteering activities. Draft amendments have been under discussion since 2019, but were not finalised. Amendments to the Law on NGOs are being drafted to improve the procedures for setting up, registering and operating NGOs. CSO representatives were appointed to the working group discussing the draft amendments.

A strategy promoting cooperation with NGOs for 2022-2026 was adopted in July 2022, after a broad public consultation process, and is being implemented. The strategy confirms the position of civil society as a strong partner of the state in public policy-making, and proposes to improve the digital registration procedures for CSOs and to publish CSO projects’ results online.

The role of civil society in the EU accession process is recognised in theory, but insufficiently in practice. CSO representatives participate in working groups discussing chapters of the EU accession negotiations. In 2022, all ministries appointed CSO representatives to working groups set up to draft laws and national strategies in their respective areas, in compliance with the Law on public administration. However, not all ministries conducted public consultations on draft laws. The report adopted by the government in December 2022 on conducting public consultations when drafting laws and strategies found that a significant number of laws were adopted without prior consultation with civil society.

On 22 July 2022, the government adopted a decision on appointing members of the Council for Co-operation of State Bodies and Non-Governmental Organisations, a body consisting of an equal number of state officials and NGO representatives. One of its responsibilities is to oversee the implementation of the strategy for cooperation with NGOs. However, there were

not enough applications from NGO representatives to become members of the Council in each of the thematic areas, despite the consecutive launch of six public calls. This reflects a perceived lack of relevance of the body among CSOs. Therefore, the Council did not resume its work, which was interrupted in October 2021. This undermines the dialogue between the government and civil society and should be addressed as a matter of priority by holding an inclusive dialogue.

The rules for public funding of CSOs oblige ministries to conduct consultations with CSOs on their annual funding priorities, to publish open calls, and to award grants through a selection process involving external evaluators. Despite this obligation, not all ministries launched calls for proposals to finance CSO projects. In some cases, the calls for proposals were delayed; as a result, more than EUR 1.1 million earmarked for this purpose in the 2022 budget has not been allocated.

In some cases, the lack of clear and fair selection criteria resulted in the selection of CSOs with no experience in the area, or the selection of CSOs unfit for the work with a specific target group. In the area of trafficking in human beings, the Ministry of Interior allocated a grant to a CSO whose manager had been accused of exerting violence against minor victims of trafficking, during a previous grant of the Ministry. The two minor victims had filed a complaint with the local police. Allocation of state funds must be based on the highest professionalism and integrity criteria and be safeguarded by a control mechanism.

The annual report on the financing of CSO projects in 2021 was published in December 2022, concluding that 92% of the allocated amount was spent. The Ministry of Public Administration created a website centralising information for CSOs, including funding opportunities. However, more efforts from ministries are needed on coordination, strategic planning, monitoring and evaluation of the support they provide to CSOs.

CSOs can also access funds at local level, according to the Law on local self-government. In 2022, 18 municipalities (out of 23) launched calls for proposals.

### 2.1.2. Public administration reform

Montenegro is **moderately prepared** in the area of public administration reform. Overall, **limited progress** was made. Implementation of the public administration reform strategy continued, while a new public finance management reform programme was adopted and its implementation was started. Both strategic documents are linked to the budgetary framework. By contrast, amendments to the civil service legislation adopted in 2021, introducing relaxed qualification requirements and ample discretion of appointing authorities to dismiss heads of administrative authorities, remained in place. Furthermore, the Parliament adopted amendments to the Law on local self-government to harmonise it with the Law on civil service, disregarding last year's recommendation. The relaxed requirements introduced by these amendments are a source of continuing concern for merit-based recruitment, competence and independence of civil servants. Continued staff changes in the public administration led to further loss of know-how on matters related to the EU accession process and an overall slowing of the pace of reforms. The Parliament has yet to adopt long-awaited amendments to the Law on access to information. Effective lines of accountability within the administration are still to be set up.

The 2022 recommendation on adoption and implementation of the strategic framework was met, while other recommendations remain valid. In the coming year, Montenegro should in particular:

→ adopt and implement amendments to the Law on access to information in line with the

principles of good public administration and introduce measures to reduce the high number of requests for information and related appeals;

- amend the Law on civil servants and state employees and the Law on local self-government to ensure that recruitment follows the principles of merit, competence and transparency.
- put in place a unified, comprehensive and transparent system for capital investment planning and management.

### Strategic framework for public administration reform

In May 2023, the government adopted a report on the implementation of the 2022-2026 **public administration reform (PAR) strategy** in 2022. Political support for PAR continued to be ensured through the PAR Council, chaired by the Prime Minister. The format of the Council was made more inclusive: in addition to representatives of government institutions and civil society, the composition was expanded to include representatives of the trade unions. The PAR strategy and its action plan were linked to the 2023 budget.

**Rightsizing (optimising) public administration** is one of the objectives of the PAR strategy. As part of this, functional analyses are being carried out, notably in the health sector. At the same time, the number of employees at both central and local level continued to increase, with no proper prior assessment. Outgoing governments have made many appointments that burden the state budget for the next few years.

### Policy development and coordination

The **legal framework** for policy development is in place. In February 2023, the government adopted its annual work programme for 2023, based on the government's mid-term work programme for 2022-2024.

The **institutional structures** for a coherent policymaking system are in place. The overall quality of strategic documents improved. The general secretariat of the government increased its attention to incorporating gender and environment into all policies. Nevertheless, further work is needed to make this process more effective and practical, including by training all stakeholders. Proper costing of strategic documents and their linkages to the budgetary process continue to require particular attention.

**Evidence-based policymaking** remains only partially ensured. According to the latest available government report (2021), ministries are not consistently carrying out public consultations, with consultations being held on 45% of laws and strategies. When public consultations were carried out, mandatory accompanying documents such as the regulatory impact assessment (RIA) were published for less than half of the drafts under consultation (48%). However, work is ongoing to improve the RIA process, including by developing a new form.

### Public finance management (PFM)

In December 2022, the government adopted a new **PFM reform programme** for 2022-2026 with an action plan for the same period. In May 2023, the government adopted implementation reports for 2021 and 2022. The PAR Council provides political guidance for the implementation of the reform programme and ensures coordination with the PAR strategy. The new reform programme is linked to annual budgeting and the mid-term budgetary framework. It has a wider scope than the previous one as it now includes PFM at local government level. The government's investment planning and public investment management capacity needs to improve significantly. The improved legislative framework

for public procurement and internal control needs to be implemented in practice.

In February 2023, the Parliament adopted amendments to the Law on **budget and fiscal responsibility**, mainly to set up the Fiscal Council, an independent oversight body. However, during the preparation of the law, there was no regular consultation process among Montenegrin institutions, with no public consultations nor RIAs. Members of the Fiscal Council have not yet been appointed. Appropriate political backing will be necessary for the Council to add value to the PFM system as a trusted institution.

As concerns **digitalisation** in the PFM area, the state budget electronic system and central calculation of salaries improved. However, not all public institutions have been included in the centralised salary system. The interoperability of the different IT systems, including the treasury system, is yet to be completed. This is delaying progress in the area of PFM on issues such as introducing accrual accounting and fully developing performance budgeting.

On **budget transparency**, Montenegro published key budgetary documents timely. However, the readability of budget information did not improve significantly, and no transparency roadmap was published. Programme-based budget classification was improved continuously with programme goals and performance indicators, but weaknesses in monitoring and reporting continue to limit the analysis of the effectiveness of spending and the efficiency of service delivery. Pre-budget and mid-year budget execution reports were published according to economic, organisational and programme classifications. In addition, public participation in the budget process and the Parliament's oversight of the budget is yet to be improved, including by publishing the 'citizens' budget', which remains pending. The Parliament adopted the 2023 budget in line with the budget calendar but with limited qualitative assessment.

#### Public service and human resources management

Amendments adopted to the **Law on civil servants and state employees** in 2021, introducing relaxed qualification requirements and ample discretion of appointing authorities to dismiss heads of administrative authorities, remained in place. In December 2022, the Parliament adopted amendments to the **Law on local self-government** relaxing the requirements for recruitment and dismissal of local civil servants, aligning it with the amendments to the 2021 Law on civil servants and state employees. In February 2023, the government adopted an agreement on public administration and the judiciary to increase the **salaries** of around 20 000 public employees by an average of more than 30%, with immediate effect.

The Human Resources Management Authority worked on developing the methodology to monitor **human resources management**. Some improvements have been made to the related information system, but due also to the cyberattack in 2022, the system is yet to be completed. Nevertheless, human resources plans are still not aligned with the budget process.

The legal and policy framework is in place to promote **gender balance** in civil service, and efforts are being made to mainstream gender across all aspects of the public administration reform. Further work is needed to collect and disaggregate data on gender parity across all levels of the public administration and to prepare a planned gender equality plan for the Ministries.

#### Accountability of administration

The Parliament has yet to adopt amendments to the Law on **access to information** although the preparation and consultation process has already taken years. It is also important to solve the current problems regarding the high number of requests for information and related

appeals. After a 9-month period of inactivity, the Council of the Agency for Personal Data Protection and Free Access to Information started working again as an appeal body when two vacant positions (including that of chairperson) were filled in August 2022.

As concerns **lines of accountability**, the legislative framework for the supervision of the work of state administration bodies is in place. The framework specifies the lines of responsibility of ministries and their respective bodies. However, the functioning of this framework needs to be improved, including the process and quality of reporting by subordinate authorities to the relevant ministries.

The **organisational set-up of the state administration** is still not fully aligned with the Law on state administration. In the reporting period, the government changed the organisation of the state administration three times. This resulted in reorganisations of the state administration without appropriate prior analysis and led to significant staff turnover because the tenure of incumbent managers was ended and new managers were appointed.

The legal basis is in place to ensure the **citizens' right to good administration** in administrative procedures and judicial review and for public authorities to assume liability in cases of wrongdoing and ensure the citizens' right to seek compensation. However, cases of administrative disputes are not treated in a reasonable time. The Administrative Court has a very large number of administrative disputes from the area of access to information and as a consequence, the estimated duration of handling cases has increased to more than three years. Also, as public authorities are often not enforcing court judgements voluntarily. Even if a court makes a judgement in favour of the citizen and the administration needs to compensate for its wrongdoing, the citizen needs to initiate enforcement proceedings, which takes additional time.

#### Service delivery to citizens and businesses

The process of modernising **public service delivery** in Montenegro remained slow. The Law on administrative procedures was not consistently implemented, notably as concerns the 'once only' principle and electronic communication. Services in general remain bureaucratic and are not user-friendly.

Overall, the **digitalisation of public services** remains modest, particularly for services offered to individuals. Recent survey data on people's use of e-administration shows that in Montenegro less than 30% used the internet to interact with public administration in 2021, compared with the EU average of 58.50%. Montenegro made some progress in the digital government area, notably on the functional interoperability framework and active electronic data exchange among various government institutions. Nevertheless, the government needs to invest in transforming these key enablers into tangible results for people, working both on the supply side (issuing more streamlined, user-friendly digital services and eID solutions) and on the demand side (understanding the reasons for people's low take-up of available digital services and removing the obstacles). Montenegro has not aligned with the latest revision of the European Interoperability Framework and the Interoperable Europe Act.

## **2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS**

### **2.2.1 Chapter 23: Judiciary and fundamental rights**

*The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is respect for fundamental rights in law and in*

*practice.*

Montenegro remains **moderately prepared** to apply the EU *acquis* and European standards in this area and has made **limited progress** overall. No progress was achieved on justice reform, to date the most challenging area of the rule of law. The judicial system continued to face a deep institutional crisis and remains affected by issues of accountability, among other weaknesses. As stated in previous annual reports, corruption and high-level corruption remain issues of concern and are prevalent in many areas, including within state structures. Limited progress was achieved in preventing corruption, but the legislative and strategic framework have yet to be fully upgraded. Several high-profile cases of corruption are under investigation. Montenegro needs to demonstrate a stringent and unambiguous criminal justice response. Montenegro continues to meet its obligations on fundamental rights under international human rights instruments and legislation. However, challenges remain in ensuring effective implementation of legislation, in particular for the most vulnerable. The continuing trend of increase in the number of femicides and cases of gender-based violence remains an issue of serious concern. Full and effective protection of journalists and other media workers continues to improve, yet tangible results on old cases of attacks have yet to be achieved.

### **Functioning of the judiciary**

Montenegro's **judicial system** is **moderately prepared**, with **no progress** on the implementation of key judicial reforms. The functioning of the justice system continued to face challenges including pending appointments and a number of crucial posts that remain occupied *ad interim* beyond the mandate limited by the Constitution or other relevant legislation. This resulted in weak leadership and management, lack of strategic vision and poor planning, affecting the country's ability to deliver justice and undermining the legitimacy of the highest judicial institutions. This was particularly serious for the Constitutional Court, which was left without a quorum from September 2022 until February 2023, when the Parliament appointed three judges. The Court still has one vacant position.

Several events described in the text below suggest that the independence, impartiality, accountability and professionalism of the judiciary have yet to be improved. Ensuring the ethical and disciplinary accountability of judges and prosecutors remains an issue. Furthermore, the Law on Judicial Council and judges, and the Law on State Prosecution Service, have yet to be amended in line with European standards and the EU *acquis*, following the existing European Commission recommendations and Venice Commission opinions. These two laws are central to the functioning of the judiciary and the prosecution, ensuring, respectively, their independence and autonomy, impartiality, accountability, and professionalism.

The efficiency of the judiciary also needs to be strengthened. The human, financial, physical infrastructure and ICT management systems require improvement. The adoption of a new strategy on the rationalisation of the judicial network is still pending.

The proper functioning of the judiciary in line with European standards has yet to be proven. There must be a genuine and unambiguous commitment from the executive and the judiciary to guaranteeing the implementation of reforms, and a political dialogue in the Parliament to secure the required majority for all pending senior judicial appointments and pieces of legislation.

Montenegro continues to make progress on the domestic handling of war crimes, with good judicial cooperation with neighbouring countries and the International Residual Mechanism

for Criminal Tribunals.

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

- appoint the remaining members of the Constitutional Court and the Judicial Council, a permanent President of the Supreme Court, and a permanent Supreme State Prosecutor and President of the Prosecutorial Council, based on merit and in a transparent procedure, to ensure the proper functioning of the judiciary with independence, impartiality and integrity of officeholders in key judicial positions;
- amend the Law on Judicial Council and judges, the Law on State Prosecution Service, and convincingly plan the necessary amendments to the Constitution, addressing all the already existing European Commission recommendations, Venice Commission opinions and Council of Europe Group of States against Corruption (GRECO) recommendations, to bring them in line with the EU *acquis* and European standards on the independence of the judiciary and autonomy of the prosecution, as well as their impartiality, accountability and professionalism;
- adopt a new strategy and action plan for the judicial reform and for the rationalisation of the judicial network; fully implement the ICT strategy, to improve the efficiency of the system.

### Strategic documents

Justice reform remains the most challenging area of the rule of law. There were no results on the implementation of the 2019-2022 strategy for the reform of the judiciary and its 2021-2022 action plan. The government did not adopt any new strategic documents on judicial reforms. The Ministry of Justice did not demonstrate the required level of commitment to fully and timely implementing all segments of the judicial reforms.

### Management bodies

The functioning of the judiciary continues to face a deep institutional crisis.

On 27 February 2023, the Parliament appointed three judges to the **Constitutional Court**, thus restoring the Court's decision-making quorum. This ended an unprecedented institutional blockade for Montenegro that left the Court unable to function between September 2022 and February 2023. This affected the capacity of Montenegro to finalise local election results, led to instances of politically opportunistic behaviour, and prompted the Venice Commission to exceptionally step in, in place of the Court, to examine the constitutionality of proposed amendments to the Law on the President upon the request of the President of Montenegro. The Parliament still needs to appoint the seventh (final) judge needed for the Court to function in full compliance with the Constitution.

The Constitutional Court's ability to function properly, its performance and efficiency were undermined throughout 2022 due to its incomplete composition, even before it lost its quorum in September after the retirement of one judge, leaving the Court with only three out of seven judges. With its quorum restored in February 2023, the Constitutional Court resumed its work on a very substantial backlog of over 3 000 constitutional complaints and over 250 initiatives for reviewing the constitutionality of laws and other legal acts. The Court resolved the appeals against the local election results, which were confirmed, enabling the formation of local governments in certain municipalities, including Podgorica.

The Judicial and Prosecutorial Councils are the two main bodies for the self-government of the judicial system, bearing responsibilities for the careers of judges and prosecutors. The

composition, appointment procedures and functioning of these two bodies remain issues of concern that affect more broadly the whole justice sector, including on the balance between independence and accountability. The Law on Judicial Council and Judges, and the Law on State Prosecution Service, remain to be amended in line with European standards and the EU *acquis*, following the existing European Commission recommendations and the Venice Commission opinions.

After two years in incomplete composition, the **Judicial Council** has now all of its 10 members in place. In 2022, the General Conference of Judges elected four new members to the Council. The Council's long-lasting incomplete composition undermined its decision-making, which requires a two-thirds majority in several instances, such as the appointment of the Supreme Court President (pending since 2020). This undermined the overall functioning of the justice system.

The Judicial Council still operates with three of its lay members in office beyond the formal end of their term of office in 2018, including its acting President. This is contrary to the Constitution, which limits the term of office of members of the Council to four years. However, due to failure to reach a qualified majority in the Parliament for the election of new non-judicial members, a temporary anti-deadlock mechanism continues to apply. This mechanism was introduced in 2018 to ensure that the lay members concerned remain in office until new ones are appointed. The three non-judicial members are currently in their 10<sup>th</sup> year in office. This undermined the Council's democratic legitimacy and accountability.

A new call for the non-judicial posts was published in December 2022 and 11 candidates are undergoing the selection process before the Parliamentary Committee on Political System and Judiciary.

At its first session in its new composition in August 2022, the Judicial Council appointed new members to its working committees. The 2023 budget proposal amounts to EUR 2 648 609. This represents an increase of 20% compared with 2021, mainly due to the planned procurement of licences to operate the Judicial Information System. The Council's working space and working conditions in general continued to be inadequate.

The appointment of a permanent **Supreme State Prosecutor (SSP)** – who is also the **President of the Prosecutorial Council** – has been pending since October 2019 due to lack of cross-party consensus in the Parliament.

In July 2022, the **Prosecutorial Council** decided to extend the term of office of the acting SSP for six additional months, in line with the temporary anti-deadlock mechanism set in the Law on State Prosecution Service. In February 2023, the Council appointed a new acting SSP for a term of office of six months, through a decision-making process that raised concerns over compliance with the relevant provisions of the Law on State Prosecution Service as described in the following section.

During the reporting period, the Prosecutorial Council held eight sessions. The 2023 budget of the Council is EUR 673 205 (2022: EUR 548 529). The Prosecutorial Council must still ensure a more proactive approach to addressing issues in the public prosecution service, for example the evaluation of the professional performance of Heads of State Prosecution Offices and of State Prosecutors themselves, including their accountability and professionalism. In December 2022, the Council adopted its 2023-2025 communication strategy, including the accompanying 2023 action plan. Additionally, the Council adopted a new reporting methodology.

Further efforts are needed to substantially **improve the functioning of the entire judicial**

**system** and restore public trust in it. While the transparency of the Judicial and Prosecutorial Councils continued to improve, it has yet to be further strengthened. Sessions of both Councils are open to the interested public (media, NGOs), but further measures are needed, such as publishing fully reasoned decisions on promotions, appointments, and disciplinary cases. The operational capacity of both Councils' secretariats continues to improve but should be strengthened further. Their administrative capacity has yet to be improved, including regarding planning and management of strategic, budget and human resources, as well as public communication. Members of both Councils should devote more time and show full commitment to performing their functions. Overall, resource levels do not match judicial performance targets. Other key high-level judicial appointments remain pending ultimately affecting Montenegro's ability to deliver effective justice. This lack of appointments significantly hampers the correct functioning of the highest instances and the management bodies of the judiciary. This undermines their capacity to exercise their powers, which are key to ensuring the independence of the justice system and to providing strategic guidance and leadership in the reform process.

Montenegro has yet to implement key **constitutional amendments** in line with the recommendations of the Venice Commission and GRECO and with other European standards. This includes the outstanding adoption of relevant implementing legislation. Montenegro did not address fully the 2021 Venice Commission recommendations on the amendments to the Law on State Prosecution Service, including on the appointment by qualified majority of the lay members of the Prosecutorial Council, to reduce the risks of undue political influence over the Council. Montenegro has yet to ensure the effective independence and professionalism of the judiciary, including by fully and unambiguously implementing the relevant constitutional and legal framework in line with European standards. The revision of the Law on Judicial Council and judges is ongoing; however, the European Commission and Venice Commission recommendations have yet to be fully addressed.

Montenegro has yet to take tangible measures to demonstrate its unambiguous commitment to guaranteeing the proper functioning of the judiciary in line with European standards. The executive and the judiciary need to be genuinely determined to support the implementation of reforms. Political dialogue in the Parliament is also essential to secure the required majority for all pending senior judicial appointments and pieces of legislation.

#### Independence and impartiality

Following the 2013 amendments to the Constitution, judicial independence was strengthened by increasing the safeguards against the risks of undue political influence over appointments. Overall, the legal framework guaranteeing judicial independence is in place. However, the judiciary and the prosecution service remain to be perceived as vulnerable to political interference and the level of public confidence in the judicial system remains low. This is due mainly to an insufficient rule of law culture in relevant institutions and to shortcomings in the relevant legislation. At the same time, the executive and legislative branches must avoid publicly discrediting the judiciary.

The legal framework guaranteeing the independence and impartiality of the judiciary is being revised. Following an extensive and inclusive consultation process, in October 2022, the Ministry of Justice requested an opinion from the Venice Commission on the draft amendments to the **Law on Judicial Council and judges**. The December 2022 opinion pointed to several issues to be addressed, including most of the 2014 Venice Commission recommendations on the same Law. These include, regulating judges' work-related rights (including their retirement age and pension rights), limiting the use of temporary anti-

deadlock mechanisms for key appointments to specific exceptional events, bringing the evaluation and disciplinary proceedings of judges in line with European standards, and strengthening the independence of the Judicial Council and the legal guarantees to avoid undue political influence. In February 2023, the Ministry of Justice requested a follow-up opinion from the Venice Commission based on an updated version of the draft amendments, which concluded in March 2023 that several of these important recommendations have not been followed and remain valid. On 1 June 2023, the government adopted draft amendments to the Law on Judicial Council and judges. These amendments improve certain technical aspects of the current Law, but do not address several important recommendations of the European Commission and the Venice Commission in substance, including the above-mentioned ones. They are therefore not sufficient to bring the Law in line with the EU *acquis* and European standards regarding the independence, impartiality, accountability, integrity and efficiency of the judiciary and need further revision.

In addition, the 2021 Venice Commission recommendations on the **Law on State Prosecution Service** have yet to be addressed. In particular, Montenegro has not fully addressed recommendations related to the election of lay members to the Prosecutorial Council and the need to ensure that the Council is not politicised in this process. In addition, Montenegro has yet to address the concerns over the termination of the mandate of the Prosecutorial Council members immediately after the entry into force of the amendments, and the transitional arrangements proposed do not represent a solution to the serious issue of the need to find broad political consensus on the next SSP. In February 2023, the Ministry of Justice announced the setting-up of a working group to amend the Law.

These two Laws are central to the functioning of the judiciary and have yet to be brought fully in line with European standards and the EU *acquis*.

Contrary to his predecessor, the Minister of Justice took active part in the Judicial Council sessions as *ex officio* member. In October 2022, the Minister criticised the Judicial Council's decision to publish a new call for the election of the President of the Supreme Court of Montenegro as he did not consider it appropriate. In January 2023, the only candidate that applied, the current acting President of the Supreme Court and member of the Judicial Council, did not get the necessary majority due to the interpretation of the Law by the Supreme Court's General Session. An appeal was filed before the Administrative Court, which overturned the decision and deemed the candidacy valid based on the support of a sufficient majority of Supreme Court judges. Following this, the Anti-Corruption Agency initiated proceedings to investigate potential aspects of corruption in the Administrative Court's decision-making process. In addition, the Anti-Corruption Agency submitted a request to the Ministry of Justice to conduct an inspection of the Administrative Court. In July 2023, the Judicial Council did not support the appointment of the current acting President of the Supreme Court as full-term Supreme Court President.

The appointment of a permanent **Supreme Court** President has been pending since December 2020; attempts have failed five consecutive times.

In April 2023, the Judicial Council appointed a new President of the Commercial Court. The constitutional and legal framework limit the period in office of Court Presidents to a maximum of two terms to prevent over-concentration of power, but two Basic Court Presidents (Basic Courts of Danilovgrad and Zabljak) were reappointed by the Judicial Council for a third mandate or more between 2019 and 2020 and are still in office.

The Judicial Council continued its good practice of publishing the names of applicants for judicial positions.

In July 2022, the Prosecutorial Council decided to extend the term of office of the acting **Supreme State Prosecutor** (SSP) – who is also the acting President of the Prosecutorial Council – for six additional months, in line with the temporary anti-deadlock mechanism set in the Law on State Prosecution Service.

In September 2022, based on a legal opinion of the Ministry of Justice, the Prosecutorial Council adopted a decision granting the right to the acting SSP, which was exercised in February 2023 after the expiration of the mandate of the former SSP, to remain in the Supreme State Prosecution Office (SSPO) as State Prosecutor. This decision is incompatible with the procedure for the appointment of State Prosecutors to the SSPO set in the Law on State Prosecution Service.

In December 2022, the Parliament once again failed to appoint a permanent Supreme State Prosecutor who is also the President of the Prosecutorial Council.

After that, still in December 2022, the Prosecutorial Council and the caretaker government adopted a proposal to amend the Law on State Prosecution Service, extending the term of office of the acting SSP virtually ad infinitum until the Parliament would appoint a new permanent SSP. This was against the recommendations of the European Commission and the Venice Commission and raised concerns over the respect for the rule of law and the key principles of independence and accountability of the judiciary and the separation of powers. Furthermore, the current Law on State Prosecution Service includes an anti-deadlock mechanism<sup>3</sup> by which the Council may appoint an interim SSP for a period of six months, extendable for one more period of six months. Following the negative opinion of the Parliament's Judicial Committee, the caretaker government decided to withdraw the proposal from parliamentary procedure.

On 6 February 2023, as the last mandate expired, the Prosecutorial Council failed to appoint a new acting SSP as neither of the two candidates received the required majority.

Two days later, the Council appointed a new acting SSP from among its prosecutorial members, who resigned just before the vote took place. This raised concerns regarding the respect of the relevant provisions in the Law on State Prosecution Service, which determines that a prosecutor who is a member of the Prosecutorial Council can neither be appointed as head of the Prosecution Service nor be promoted during their mandate in the Council. In addition, the potential conflicts of interest during the decision-making process were not addressed, as the appointee was involved as a member of the Council in the voting on the two other candidates for the same position two days earlier. In April 2023, the Council proposed one candidate to the Parliament from amongst three applicants for an appointment as permanent SSP following the launch of a public call in January 2023. The vote in Parliament is pending. In August 2023, the Council extended the mandate of the acting SSP, which had been elected in February 2023, for six additional months.

The Prosecutorial Council needs to show genuine and unambiguous commitment to guaranteeing the full independence of the judiciary and to fully implementing EU-related reforms in the judiciary in compliance with European standards.

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<sup>3</sup> This mechanism was introduced in 2021, based on the opinion of the European Commission and the Venice Commission, with a clear caveat: such a temporary solution should not last too long, to prevent that the constitutional provisions giving the power to elect the permanent SSP to the Parliament and limiting the SSP's term of office would be deprived of any meaning.

In January 2023, the Council launched a new public call to appoint a permanent SSP, and in April 2023, it proposed one candidate to the Parliament among the three applicants.

### Accountability

Promotion and enforcement of **ethics and professional standards among judges and prosecutors** remains a challenge. Both the Judicial and the Prosecutorial Councils have a limited track record and lack proactivity. Montenegro did not amend the disciplinary and ethical legal framework for judges and prosecutors. Further improvements and effective enforcement of the judicial inspection system are needed, including more thorough and unannounced inspections.

In October 2022, acting upon the request of the Disciplinary Prosecutor, the Judicial Council temporarily removed one judge from the Commercial Court, in connection to criminal proceedings launched in the case against the former President of the Supreme Court. In November 2022, the Special Prosecutor's Office filed an indictment before the High Court in Podgorica against the former President of the Commercial Court of Montenegro on charges of organised crime, embezzlement, and other criminal offences. The indicted person remains in pre-trial detention.

In December 2022, a Special Prosecutor from the Special Prosecution Office was arrested on organised crime and corruption charges. Placed in pre-trial detention, the Prosecutorial Council suspended him from office.

In April 2023, the Minister of Justice filed a motion for the dismissal of Head of the High Prosecutor's Office in Podgorica over suspicion of exerting undue influence on a prosecutor in 1 case. Acting upon the Minister's motion, the Disciplinary Prosecutor presented a motion for her dismissal to the Prosecutorial Council. In June 2023, the Council rejected the motion.

There has been no progress in strengthening the accountability of judges and prosecutors and demonstrating a corresponding track record. The work of ethical commissions for judges and prosecutors remains mostly ineffective. During the reporting period, the **Ethical Commission of the Judicial Council** was not functioning. A legal remedy to challenge the Commission's decisions has yet to be provided for by law. There are seven cases pending before the Ethical Commission.

Following the new composition of the Prosecutorial Council in August 2021, the **Ethical Commission of the Prosecutorial Council** restarted its activities only in September 2022, with the processing of several pending cases. In one case, the Ethical Commission found a violation of the Code of Ethics for State Prosecutors, while in four cases, it found that State Prosecutors had not violated the Code. While one case was delegated to the Commission for examining complaints about the legality of the work of State Prosecutors and Heads of State Prosecution Offices, the remaining four cases are still pending before the Commission.

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

Judges and prosecutors are required by law to declare their assets. However, the verification of asset declarations by the Anti-Corruption Agency (ACA) is limited to a check of compliance with the legal obligation to submit such declarations, which can only result in administrative and misdemeanour proceedings. The competences of ACA regarding the verification of asset-declarations should be strengthened in order to ensure an effective asset-declaration system. The disciplinary practice of the Judicial and Prosecutorial Councils in sanctioning judges and prosecutors for not submitting reports on assets and incomes to the ACA is not consistent and puts into question the effectiveness of this preventive mechanism.

The Disciplinary Committee of the Judicial Council did not sanction any judge for not providing asset declarations, while the Disciplinary Committee of the Prosecutorial Council sanctioned non-compliant prosecutors with a 20% salary cut.

There have been no significant results on enforcing measures to ensure the accountability of independent legal professions. In 2023, the Ministry of Justice initiated proceedings to establish the disciplinary liability of one public bailiff. The implementation of the new Codes of Ethics for notaries, public bailiffs and court interpreters remains limited. The draft of the new Code of Ethics for lawyers is still pending adoption by the Bar Association. The self-regulatory roles of the chambers and professional associations of legal professions must also be further strengthened.

During the first half of 2023, judicial inspectors of the Ministry of Justice performed inspections in 10 courts and six prosecution offices, during which no irregularities were observed. In 2022, judicial inspectors of the Ministry of Justice carried out inspections in 20 courts and 16 prosecution offices. In addition, at the request of the acting President of the Supreme Court, an extraordinary inspection was conducted in the High Court in Podgorica. During the inspection of the courts and prosecution offices, 15 irregularities were found (8 in the work of courts and 7 in the work of prosecution offices). Judicial inspectors of the Ministry of Justice performed regular checks of the legality of the work of 25 public bailiffs' offices and the Chamber of Public Bailiffs, during which two irregularities were observed. In addition, judicial inspectors of the Ministry of Justice checked the legality of the work of 38 notaries' offices and the Chamber of Notaries, during which seven irregularities were found. The Ministry's capacity in this area still requires significant strengthening.

#### Professionalism and competence

Montenegro continues to organise single nation-wide competitions for judges and prosecutors. The Judicial Council appointed 20 new judges, while 14 judges were promoted to higher instance courts. In addition, three court Presidents have been appointed by the Judicial Council (Commercial Court, Administrative Court, and Basic Court in Kotor). In 2022, the Council confirmed the termination of judicial function for 16 judges.

In 2022, the Prosecutorial Council appointed the new Chief Special Prosecutor, the Head of the Basic State Prosecutor's Office in Podgorica and 17 State Prosecutors. In 2023, the Council appointed the Head of the Basic Prosecutor's Office in Cetinje. The Council confirmed the termination of prosecutorial function for 21 prosecutors, including the former Chief Special Prosecutor.

Both Councils have yet to ensure the systematic conduct of regular assessments of judges and prosecutors. Evaluations need to be more thorough. Both Councils should develop their appraisal parameters with more targeted focus on magistrates' accountability, individual performance, and the quality of work. In 2022, 29 judges (only around 11% of the active ones) were evaluated as part of the regular professional assessment procedure, while 61 judges and 7 State Prosecutors were evaluated for the purpose of promotion. In 2022, only three State Prosecutors were evaluated as part of the regular professional assessment procedure, while 13 prosecutors were evaluated for the purpose of promotion and 13 at the end of their 4-year terms of office. The fact that all 29 evaluated prosecutors received excellent grades raises questions over the objectivity and the overall purpose of the evaluation process. In September 2022, the Prosecutorial Council adopted revised rules on evaluation of State Prosecutors, which entered into force on 7 October 2022.

The interpretation of legal conditions for old-age retirement of judges and prosecutors is disputed after the 2020 Law on pensions insurance lowered the general age requirement for

the right to a pension, deviating from provisions of the General Labour Law. In December 2022, the Administrative Court annulled the Judicial Council's decision from August 2021 to terminate the mandate of a judge of the Supreme Court due to fulfilment of the conditions for old-age retirement. Following this decision, the Judicial Council informed the Supreme Court that the judge has the right to return to work. In 2022, the Judicial and Prosecutorial Council declared the termination of the mandates of nine judges and 10 State Prosecutors based on their interpretation of fulfilment of the conditions for old-age retirement. Proceedings before the Constitutional Court on this subject are still ongoing.

### Quality of justice

The 2023 budget for the justice system is EUR 42.01 million. This is an increase of 11% compared with the previous year (2022: EUR 37.3 million). Courts and prosecution offices are considered as separate budgetary units in the state budget for 2023. While implementation of the programmatic budgetary framework is ongoing, the capacity of individual courts and prosecution offices to effectively apply the procedures for budgetary planning, resource allocation and execution remains insufficiently developed.

In 2022, Montenegro had 263 full-time judge positions (42.4 per 100 000 inhabitants), 57% of whom were women, and 103 prosecutor positions (16.6 per 100 000 inhabitants), 62% of whom were women. According to the European Commission for the Efficiency of Justice, the European averages are 22.2 judges and 11.8 prosecutors per 100 000 inhabitants. The 2022 budgetary allocation for the judicial system in Montenegro was about EUR 35,249,852 € million. This amounts to around EUR 30 per inhabitant.

On 1 June 2023, the government adopted draft amendments to the **Law on Judicial Training Centre of Montenegro**, proposing a reduction in the duration of the initial training for judges and prosecutors from 18 to 12 months. Montenegro did not consult with the European Commission on these amendments, which are not in line with European standards and with the recommendations already submitted to Montenegro.

Overall, apart from the proposed amendments, the functioning of the **Judicial Training Centre (JTC)** continues to improve. Its 2023 budget is EUR 869 819, which is in accordance with the amount prescribed by law (2% of the budget allocated for judiciary and state prosecution). In 2022, the total budget allocated to training initiatives at the JTC amounted to EUR 385 839, a reduction of 8.7% compared with the previous year. The JTC continued to implement the new training needs assessment (TNA) methodology adopted in 2021 and prepared a comprehensive TNA report, based on which the 2023 training programme was developed. The JTC assessed the criteria and procedures for selecting and evaluating judicial trainers to further improve the quality of judicial training programming and delivery. As for the administrative capacity of the Secretariat of the Centre for Training in the Judiciary and Public Prosecution Service, out of the total of 19 planned positions, 15 are currently filled.

The positive trend in **alternative dispute resolution (ADR)** continued and the system continued to expand. In 2022, the ADR Centre received 10 773 cases for mediation (2021: 7 297 cases). Between 1 January 2023 and 30 June 2023, the ADR Centre received 3 914 new cases, while 1 384 cases from 2022 are still pending. The increase in the number of cases of mediation referred to the ADR Centre is not followed by an appropriate increase in the budget and staff of the Centre. From July to October 2022, a public awareness raising initiative presenting the work of the ADR Centre and the benefits of mediation was implemented to create an environment in which mediation is understood and accepted as an effective way to resolve disputes. The initiative resulted in several deliverables aimed at mediation stakeholders and the general public, including social media posts, city billboards,

animated video materials, etc.

### Efficiency

In 2022, 130 881 cases (2021: 118 568) were pending before Montenegrin courts, 92 918 of which were new (2021: 84 143). A total of 78 758 cases were resolved (2021: 80 485). At the end of 2022, 51 539 cases were pending before Montenegrin courts and the number of cases older than three years stood at 4 890 (2021: 3 794). The disposition time (the average time from filing to decision) was 178 days for Basic Court cases (2021: 158), 442 days for Commercial Court cases (2021: 197) and 1 158 days for Administrative Court cases (2021: 538). The clearance rate in 2022 decreased to 86%, from the 92% of 2021.

In the first quarter of 2023, there were 79 027 cases before Montenegrin courts: 27 488 new cases and 51 539 cases that were unresolved at the beginning of Q1-2023. In Q1-2023, 20 262 cases were resolved, of which 1 582 cases are older than three years. At the end of Q1-2023, there were 6 946 old cases (older than 2020) not resolved before Montenegrin courts.

The backlog of pending enforcement cases before courts fell. At the end of 2022, 1 006 cases were pending (150 000 in 2016). In 2022, 70 801 cases were filed with bailiffs' offices (2021: 76 779), with 42 201 cases pending by the end of the year (2021: 47 217). The number of pending enforcement cases at the end of Q1-2023 was 1 560.

Since the adoption of the analysis on the **rationalisation of the court network** in October 2020, there has been no tangible development. In 2022, the Ministry of Justice launched activities to rationalise the court network based on previous recommendations and with the support of the EU. In July 2022, the Ministry set up a working group including representatives of judicial and prosecutorial institutions to work on a strategic document. In March 2023, based on the findings of the 2020 analysis on the needs of the rationalisation of the judicial network, and on submitted proposals, the Ministry prepared a draft judicial network rationalisation plan setting out measures, activities, result and impact indicators, time limits, competent authorities, and sources of funding necessary to rationalise the judicial network. A new strategic document on the rationalisation of the court network remains to be adopted. Reforms in this area should draw on available data, conclusions from studies, and cost-benefit analyses, while ensuring better overall management of human resources and judicial infrastructure. Ultimately, these reforms should lead to the optimisation of the judicial network and the closure of small, unviable courts.

It remains a challenge to fully implement instructions for collecting statistical data in a way that is compliant with the guidelines of the European Commission for the Efficiency of Justice (CEPEJ).

The new court information system (PRIS) to further modernise and reform the judicial system is not in place yet. Therefore, it is important to find alternative solutions and make significant steps to improve court statistics and to further increase the efficiency and transparency of the judicial system.

The efficiency of the judiciary is hampered by the lack of effective systems for human resources and staffing, financial resources, ICT, proactive case management and infrastructure management. There is an urgent need for strategic investment in infrastructure. At all levels of the judiciary, the allocated working space (notably for the Special State Prosecution Office) and working conditions in general at all levels of the judiciary remain inadequate. There is a lack of specialised judges and prosecutors and a lack of expertise in certain areas. Appropriate ICT infrastructure and equipment in the judiciary is lacking. More

efforts are needed to ensure the effective financial independence of the judicial system.

#### Domestic handling of war crime cases

Montenegro continued to implement its 2015 war crime prosecution strategy, but with limited results. To ensure effective implementation and monitoring of the strategy, Montenegro needs to improve its proactive investigation and prosecution of war crimes in line with international humanitarian law. The criminal legislation is being amended to address the legal and practical obstacles to effectively investigate, prosecute, try and punish war crimes, in line with the recommendations of the International Residual Mechanism for Criminal Tribunals.

During 2022 and 2023, there were no new indictments. The trial of 1 person, against whom an indictment was filed in October 2021, is still ongoing before the High Court in Podgorica. Between 1 January and 28 December 2022, the Special Prosecution Office (SPO) handled 12 cases, of which nine are in the investigation phase and one is on trial. In seven of them, the preliminary investigation phase is ongoing. During the reporting period, the SPO acted upon three letters rogatory for the provision of international legal assistance that the Prosecution Office of Bosnia and Herzegovina (two) and the Prosecution Office of the Republic of Srpska (one) sent in 2022. The SPO sent three letters rogatory in total, one to the Prosecution Office for war crimes of the Republic of Serbia, and two letters rogatory to the Prosecution Office of Bosnia and Herzegovina.

On 16 January 2023, the Parliamentary Committee on Political System, Judiciary and Administration organised a discussion on the investigation regarding the Lora prison camp in Split. During the meeting, the Minister of Justice announced the revision of the agreement between the prosecution services of Montenegro and Croatia on cooperation and prosecution of perpetrators of war crimes as it specifies only the obligations of Montenegrin authorities, primarily the Prosecutor's Office, in acting upon the request of Croatian investigative authorities.

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

#### **Fight against corruption**

Montenegro has achieved **some level of preparation** in the fight against corruption. **Limited progress** was achieved. Corruption, including high-level corruption, remains an issue of concern and is prevalent in many areas, including in state structures. Montenegro has not sufficiently upgraded its legislative and strategic framework for the prevention of and fight against corruption in line with the EU *acquis*, European and international standards, for which a new strategy and an accompanying action plan are required. Limited progress was achieved in preventing corruption, and the results of the Anti-Corruption Agency (ACA) improved in quantitative terms. However, the ACA's independence, accountability, impartiality, and proactiveness should be further ensured. The Law on prevention of corruption should be improved in line with the existing recommendations of the 2021 peer review mission. Montenegro reached a turning point in the investigation and prosecution of some high-level corruption cases in 2022. The Special Prosecution Office (SPO) acted with alacrity in several high-profile cases. These appear to point to a deep infiltration of corruption and organised criminality into state structures, including at the top level of the judiciary and law enforcement. Montenegro's justice system needs to demonstrate a strong, stringent,

coherent and unambiguous criminal justice response. Montenegro must further improve the track record of investigations, prosecutions and final verdicts, including asset seizure and confiscation, in the fight against corruption including high-level corruption. A more deterrent and effective criminal sanctioning policy and criminal justice response to corruption including high-level corruption is needed to avoid the perception of impunity. The effective and systematic use of financial investigations and asset seizure and confiscation needs to be improved.

Efforts in this policy area should primarily target those sectors that are most vulnerable to corruption, for which a solid risk assessment and dedicated action are required.

Last year's recommendations were only partially implemented and remain largely valid. In the coming year Montenegro should in particular:

- adopt an improved the legal, institutional and strategic framework for the prevention of and fight against corruption in line with the EU *acquis*, European and international standards, through an integrated approach, by amending and effectively enforcing the Law on prevention of corruption and criminal legislation, and by addressing all recommendations of the 2021 peer review mission, including on financial investigations and asset seizure and confiscation, as well as recommendations from the Council of Europe Group of States against Corruption (GRECO) and the Organization for Security and Co-operation in Europe (OSCE);
- improve the track record on corruption including high-level corruption by urgently strengthening the effective enforcement of existing criminal legislation by prosecution services and courts, to impose effective penalties, and take specific measures to improve the use of plea bargain agreements in exceptional cases for a more transparent, credible, deterrent and consistent criminal justice response;
- take action to implement the recommendations of the June 2022 peer review mission on the fight against organised crime and high-level corruption.

Montenegro did not yet upgrade the legal, institutional, and strategic frameworks for the prevention of and fight against corruption. In particular, it still needs to adopt a new integrated strategy and action plan. Montenegro has yet to ensure inter-institutional cooperation and coordination between all bodies involved as well as coherence and a clear description and understanding of their mandates, roles and responsibilities.

The recommendations of the 2021 peer review mission remain largely unaddressed. The mission focused on assessing the legislative and institutional framework for the prevention of corruption, and on improving the ACA's capacity, performance, working methods and results. To comply with many of the peer review recommendations, Montenegro must revise the legislative framework, in particular the Law on prevention of corruption, and the Law on control of political entities and electoral campaigns in a first instance. Although this process has started, the adoption of reforms is still pending.

Furthermore, the ACA's efforts to prevent corruption need to be supplemented by a serious response by law enforcement, prosecution services and criminal justice. Independent and efficient courts are key to ensuring fair and timely judicial oversight and control of the work of the ACA and prosecutors. International cooperation should also be boosted to strengthen the national efforts in the fight against corruption, regardless and beyond ad hoc political will and affiliation. The ACA's independence, integrity, impartiality and accountability have yet to be further ensured and its proactivity and priority-setting must be improved, ensuring a non-selective approach and good-quality decisions, to improve its track record and results.

The ACA's financial independence has yet to be fully guaranteed.

Montenegro has yet to implement all recommendations of the evaluation reports from the (GRECO), including the fourth evaluation round on prevention of corruption in respect of MPs, judges and prosecutors, and the fifth evaluation round on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies.

#### Prevention of corruption – legal framework

Key shortcomings identified in the legal framework for the prevention of and fight against corruption and its effective enforcement have yet to be addressed as described below. In this respect, Montenegro has yet to address in full the recommendations of the EU peer review missions conducted in 2019 and 2021 and of the evaluation reports from GRECO.

The Law on prevention of corruption (LPC) has not been amended. During the reporting period, the lack of coordination and cooperation between all stakeholders involved in this policy area was exacerbated. Three processes to review the LPC ran in parallel. In March 2022, the government launched a thorough analysis of the LPC for its amendment. In turn, the ACA, supported through the EU-Council of Europe Horizontal Facility, worked on a comprehensive analysis of the LPC, which so far produced three sets of recommendations: one concerning the position, mandate and powers of the ACA; another one focusing on asset declarations, gifts and sponsorships, and on legal mechanisms to prevent conflicts of interest; and a third focusing on the provisions of the LPC related to protection of whistle-blowers, integrity and misdemeanour. Finally, the Anti-corruption Committee of the Parliament took an initiative to revise some provisions of the LPC by setting up a working group at the end of 2022. The working group completed its work in late April 2023, and the Anti-Corruption Committee adopted the draft amendments to the LPC, but the plenary vote is still pending.

Montenegro did not yet improve the legal framework regulating **political parties' funding**, partly due to the lack of willingness on the part of political parties represented in the Parliament themselves. Shortcomings in the existing legal framework on political parties' financing include those identified in recommendations of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE-ODIHR). The current legal framework does not provide for effective safeguards against and penalties for circumvention of the rules, which limits effective oversight. Limited progress was achieved on amending the rules on calculation and reporting of in-kind donations, in line with the Council of Europe's recommendations and aligning the annual financial reporting form with best accounting practice, which had been pending since 2014. Civil society organisations (CSOs) are critical of the lack of progress in revising the legal framework for combating corruption in political parties' financing. In particular, the Law on election of Councillors and MPs was not amended, and it must be aligned with the Law on financing of political entities and election campaigns.

#### Prevention of corruption – institutional framework

**The ACA** remains Montenegro's key institution for promoting integrity and preventing corruption. In performing its activities, the ACA cooperates with several public bodies, including the prosecution services and the State Audit Institution. The results of the ACA's investigations are subject to court review.

In July 2019, the President appointed the Anti-Corruption Council for a four-year term of office. The Anti-Corruption Council consists of five members and is responsible for decision-making on the ACA and for the appointment of its Director. The Council's mandate ended on

31 July 2023.

In November 2022, during the parliamentary debate on the ACA's 2021 annual report, some MPs announced an initiative to dismiss the ACA's management, questioning its impartiality and accusing it of taking a selective and biased approach in cases related to the previous political majority. Subsequently, the Anti-Corruption Committee of the Parliament set up a working group to propose amendments to the existing LPC to increase the Parliament's oversight functions on the ACA and the accountability of the ACA's management if it acts in a biased manner. Under the existing legislation, only the ACA's Council can dismiss the ACA's Director. The working group, which started working in early 2023, includes two MPs and two representatives of relevant CSOs. Representatives of the parliamentary opposition and the Director of the ACA refused to take part in the working group. These parallel initiatives suggest that Montenegro has yet to ensure leadership and a coherent approach to amending and modernising the legal and institutional framework for the prevention of corruption in line with European and international standards and best practice.

The ACA currently employs 53 persons while its organigram detailing the workforce envisages a total of 75 posts. Following the 2021 EU peer review mission recommendation to allocate additional human resources to the ACA, the government decided in the second half of 2022 to employ 14 more staff. A total of seven recruitments are finished, and the rest are ongoing. During the reporting period, the ACA continued its communication activities and collaboration with CSOs, holding meetings, participating in consultations, and attending 10 conferences organised by civil society. Moreover, in 2022, the ACA held 29 anti-corruption training sessions attended by 362 participants.

Based on the Law on financing of political entities and election campaigns, the ACA checks if legal entities, companies, entrepreneurs, and related natural and legal persons who performed activities of public interest or concluded a contract following a public procurement procedure gave contributions to political subjects in the two years before or after the contract period. Montenegro could strengthen prevention of corruption in the field of public procurement and political parties' financing by fully and efficiently exchanging good-quality data, and ensuring the interoperability between the Ministry of Finance's e-procurement system and the ACA's electronic system.

The ACA checks public procurement procedures based on whistle-blower reports related to government bodies, local self-government and administration units, and public companies, public institutions, and other legal entities whose majority owner or founder is the state or a municipality. In 2022, the ACA initiated 28 procedures based on whistle-blower reports (which is about 14.2% of a total of 188) and 9 procedures that were initiated *ex officio*.

In July 2022, the caretaker government decided to set up the new National Council for the Fight against High-level Corruption, replacing the one created in 2020. Beyond representatives of different ministries and other relevant bodies, judges and prosecutors, the National Council also includes representatives of CSOs, such as NGOs and the Union of Municipalities. Its constitutive session took place at the end of January 2023. The main responsibilities of the National Council include preparing, monitoring and reporting on the implementation of a new strategy for the fight against corruption and related action plans, to which this body must dedicate thematic sessions. Further responsibilities of the National Council include the strengthening of inter-institutional cooperation on matters related to corruption. The National Council met twice. As of June 2023, a needs assessment is being carried out under the Horizontal Facility funded by the EU and the Council of Europe to analyse the institutional framework and support the drafting of the strategy.

In December 2022, a peer review mission on the functioning of independent regulatory bodies in the area of fundamental rights took place, assessing the **Agency for Personal Data Protection and Free Access to Information**. The human resources capacity of the Agency needs to increase, particularly in the area of free access to information, where in 2022 only 10 staff dealt with a caseload of 8 865 complaints (2021: 5 285). Most of the complaints were filed by only a few physical persons, which could indicate an abuse of the system for financial benefit. The Agency's Council was not operational until August 2022 and was able to solve 3 743 complaints. By the end of 2022, the backlog stood at 5 720.

#### Prevention of corruption – track record

The **track record on prevention of corruption** continued to improve in terms of the number of cases dealt with. The ACA became somewhat more proactive in its work and outreach activities towards the public, media, and civil society.

In 2022, the ACA initiated a total of 444 new administrative procedures and completed 423 procedures (including cases from previous years). In the first quarter of 2023, the ACA initiated 28 administrative proceedings against public officials (income and assets declarations only). In 2022, the ACA instituted a total of 1 556 proceedings on various grounds before misdemeanour courts (2021: 1 164 proceedings), 1 043 proceedings were completed (including those from previous years) and penalties were imposed in 92.6% of cases. The total amount of fines, including direct misdemeanour orders, amounted to EUR 103 590 (2021: EUR 149 242). In the first quarter of 2023, the ACA submitted 410 requests for initiation of misdemeanour proceedings to the misdemeanour courts.

The total number of **income and assets declarations** submitted to the ACA on various grounds further grew in 2022, reaching 11 784 (2021: 10 657). The ACA performed administrative and technical checks on 6 168 reports, verification of accuracy and completeness on 1 742 reports, and additional verification of the reports of 20 high-ranking public officials, chosen in accordance with the degree of vulnerability of the area/function. Out of the 444 administrative proceedings the ACA initiated in 2022, 423 were related to income and assets (2021: 295). The ACA found violations of the law in 376 cases (2021: 160) and initiated 1 057 misdemeanour proceedings on reports on income and assets (2021: 1 002). In the first quarter of 2023, the ACA received 9 019 statements on income and assets (25% more than in the same period of 2022), which were all administratively and technically processed, while the additional verification phase was planned for the second quarter of 2023. In the first quarter of 2023, the ACA initiated 334 misdemeanour proceedings against both former and newly appointed public officials, out of which 267 proceedings were completed. Penalties were imposed in more than 80% of cases, for a total amount of EUR 21 945.

During the reporting period, the ACA continued its activities to inform and support those concerned by the obligation to submit reports on income and assets declarations.

On **incompatibility of functions and conflict of interest**, in 2022, the ACA issued 213 opinions (14.5% more than in 2021 (186)), leading to the resignation of 24 public officials (2021: 26), and one termination of employment (2021: two). A further 55 opinions were issued in the first quarter of 2023, leading to five resignations of public officials and one termination of the service contract.

In 2022, the ACA continued monitoring **the lifestyle of public officials**, using publicly available data and media reports. The ACA submitted 1 case to the Special Prosecution Office.

In the last three years, the ACA has initiated 102 administrative proceedings against judges

and 39 against prosecutors due to the incomplete reporting of their assets, or incorrect data. In January 2023, the Administrative Court decided that the submission of incorrect data related to asset declarations and income does not necessarily constitute a violation. The ACA challenged this before the Supreme Court and its opinion is pending.

In 2022, the ACA issued 213 opinions (2021: 186) on incompatibility of functions and conflict of interest, leading to the resignation of 24 public officials (2021: 26), and one termination of employment (2021: two).

However, further work is needed to effectively address the 2021 EU peer review recommendations on the ACA's role in dealing with conflict of interest and incompatibility of functions, assets declarations and monitoring of lifestyle of public officials.

Concerning **funding of political parties and electoral campaigns**, the ACA oversaw all local elections held in 2022 and the first semester of 2023. Subsequent local elections across Montenegro resulted in an unusually long period of election campaigns, increasing the work of the ACA in monitoring the application of the Law on financing of political entities and election campaigns (LFPEEC). In 2022, the ACA checked 55 604 reports out of the 55 773 reports submitted by political subjects, authorities, and media advertising service providers. The ACA imposed measures to suspend the transfer of budget funds for the financing of regular work on eight political subjects, and a permanent measure of suspension on another five. In the first quarter of 2023, the ACA received 19 002 reports submitted by political subjects, authorities, and media advertising service providers, of which it checked 18 856.

In 2022, the ACA registered a total of 117 irregularities in the reports of political parties, and initiated 439 misdemeanour proceedings for violation of the LFPEEC. Out of 167 complaints relating to electoral campaigns submitted in 2022, the ACA decided on 89, while other procedures are ongoing. In the first quarter of 2023, the ACA initiated misdemeanour proceedings for violation of the LFPEEC in 69 cases, and 86 proceedings were completed (also from previous years). The ACA imposed 10 measures on political entities. It organised four meetings with CSOs on monitoring, supervision and control of electoral campaigns in the 2022 local elections. In the first quarter of 2023, Two such meetings were organised. Despite the overall figures, the scope and therefore the impact of checks in this important area remain limited due to the unclear or deficient provisions of the LFPEEC, namely regarding the exemption of some categories of political subjects from the scrutiny of the ACA. In line with the findings of the 2021 peer review, and in view of the numerous hidden arrangements for (illegal) political party financing, further efforts are needed to adjust the rules to this volatile environment and make the monitoring of political parties' financing by the ACA and the State Audit Institution effective.

In 2022, the **State Audit Institution (SAI)** performed and published audit reports on both financial and regularity audits from 2021 for 12 political entities. Regularity audits resulted in five qualified, five adverse and two unqualified opinions, while for financial audits the SAI expressed nine unqualified, two qualified and one adverse opinion.

In 2022, the ACA received seven requests for **whistle-blower protection** (2021: five), three of which are still being processed. The ACA received 189 reports on threats to the public interest (2021: 142), out of which 94 were submitted anonymously. The ACA completed 81 procedures and identified threats to the public interest in five cases (2021: 15). The ACA forwarded 12 reports to the prosecution service, and 34 to other responsible state institutions. The largest number of procedures initiated based on whistle-blowers' reports is related to labour relations. In the first quarter of 2023, the ACA received 57 whistle-blower reports, a significant increase compared with the same period of last years. A total of 28 reports were

anonymous. A threat to the public interest was found in 1 of the 12 completed procedures. No procedure was forwarded by the ACA to the prosecution authorities, while 3 reports were forwarded to other responsible institutions. Further sustained results are needed, including by increasing the ACA's human resources expertise, in line with the recommendations of the April 2021 peer review. Montenegro remains the only country in the region without a specific law on whistle-blowing; the subject remains covered by the LPC, which is not fully in line with the EU *acquis*.

On **integrity plans**, in 2022, 704 reports (2021: 692) on the implementation of integrity plans in 2021 were submitted to the ACA. In the first quarter of 2023, 167 reports on the implementation of integrity plans in 2022 were submitted to the ACA by various authorities. By the end of 2022, the ACA had developed a methodology for assessing the application of anti-corruption measures in the judicial system, including an IT application for its implementation.

On **lobbying**, in 2022, the lobbying register included nine individuals and one legal entity. The working group on amending the Law on lobbying produced a first draft, which was submitted to the European Commission for its opinion in June 2022. The European Commission has shared its recommendations with the Montenegrin authorities. In February 2023, the Ministry of Justice adopted a new draft version of the Law addressing most of the recommendations. In December 2022, the working group finalised the drafting of nine implementing acts meant to regulate the implementation of the Law on lobbying. The working group accepted most recommendations provided by EU experts.

The **Code of Ethics for top executive officials** was adopted in 2021 by the government in the form of non-binding guidelines. It remains ineffective as no disciplinary penalties can be imposed until the Parliament adopts the Law on government.

#### Combating corruption

The criminal legislation to improve the fight against corruption is being revised in line with European standards. The existing legal framework on asset confiscation needs to be reviewed and its effective enforcement has yet to be improved substantially, in line with the EU *acquis*, European standards and best practice. The new draft law on confiscation adopted by the caretaker government and submitted to the Parliament failed to address all comments, recommendations and concerns provided by EU experts and the European Commission.

The **Special Prosecution Office (SPO)** leads prosecutions in cases of high-level corruption under the leadership of the Chief Special Prosecutor. It currently employs 48 staff, including 10 Special Prosecutors. Of these Special Prosecutors, 1 was assigned to the Centre for the Education of Judges and Prosecutors; two are not active anymore but receive compensation upon termination of office; two were reassigned from the High State Prosecutor's Office in Podgorica; and two were reassigned from the Basic State Prosecutor's Office in Podgorica.

The SPO's human resources remain largely insufficient to cope with a workload of up to 100 cases per Special Prosecutor. Furthermore, the office conditions are well below the minimum required European standards and prevent the SPO from appropriately and efficiently performing its duties. This also creates security risks. Based on the pre-feasibility study prepared by an EU project to address this grave issue, the Ministry of Justice is carrying out an internal analysis, with the initial objective of housing the SPO and the Special Police Unit on the same premises.

The **High Court of Podgorica** is the specialised court in charge of high-level corruption cases. Currently, the High Court has 34 judges, five of which work in the Special Department for Organised Crime, Corruption, Terrorism and War Crimes.

A more deterrent, consistent, and effective criminal sanctioning policy and criminal justice response to corruption and high-level corruption has yet to be enforced, including to avoid the perception of impunity. The use of **plea bargain agreements (PBAs)** in high-level corruption cases, when necessary, needs to be clarified and improved in line with European standards and practice to avoid abuse during criminal proceedings. PBAs must be resorted to with extreme care, only in very specific cases, for the right purposes and building in all necessary legal safeguards. When this mechanism is used, a legal cost-benefit analysis in the interest of justice should be carried out systematically. In no case should criminal penalties go below the legal statutory minimum. To improve the effective use of PBAs, guidelines need to be drafted for specialised courts and prosecution services; a working group was tasked with preparing this in January 2023. As a precautionary measure, the SPO decided to temporarily suspend the use of PBAs in October 2022 until the guidelines are adopted and unified in their use.

The **track record** of investigations and prosecutions in cases of high-level corruption improved but has yet to be further consolidated. By contrast, the track record of trials and final convictions in these cases is almost non-existent.

In December 2022, the SPO requested the Parliament to lift the immunity of five MPs as part of a criminal investigation on suspicion of abuse of office related to the allocation of apartments and favourable housing loans to state officials, including to prosecutors, judges, other MPs or Ministers. In April 2023, a majority in the Parliament voted in favour of the motion to strip the MPs of their immunity.

In 2022, the SPO issued orders to investigate criminal offences of high-level corruption in 11 cases against 76 individuals and five legal entities (2021: 15 cases against 70 individuals and 19 legal entities). Based on the government's data, in the same year, the SPO brought six indictments against eight individuals, and 11 indictments against 73 individuals and five legal entities, an increase compared with 2021 (three indictments against nine individuals; 11 indictments against 68 individuals and 21 legal entities). Financial investigations were launched in five cases, against 43 individuals and four legal entities (2021: seven cases against 40 individuals and four legal entities).

From 15 May to 10 October 2022, criminal charges were submitted to the SPO against 438 individuals and 21 legal entities. During the reporting period, criminal charges against 80 of these people were resolved. Against 27 people, decisions were made to dismiss criminal charges. Orders to investigate were issued against 52 people, while an order to suspend the investigation was made against 1 person. Charges against 129 natural persons and three legal entities remain pending.

Montenegro has yet to improve the legal approach to and track record on **financial investigations and confiscation of assets** linked to high-level corruption. Montenegro should urgently address the lack of expertise available in the justice system on financial investigations. In 2022, a temporary security measure (ban on disposing of immovable property) was imposed in one case against a defendant. The High Court in Podgorica adopted temporary measures in two cases. In two cases related to corruption, at the request of the SPO, funds and securities at banks were temporarily blocked. Between 1 January and 22 March 2023, the High Court of Podgorica imposed provisional security measures in three new cases.

## Fundamental rights

The legislative and institutional framework on fundamental rights is largely in place and Montenegro continues to largely meet its international obligations on human rights. However, additional efforts are needed to fully implement this framework. Some legislative changes are also needed, in particular in the area of non-discrimination. Just like the previous year, the reporting period was marked by polarisation and division. The most vulnerable groups in society (including Roma and Egyptians, persons with disabilities, LGBTIQ persons) continued to be subjected to discrimination, hate speech and hate crime.

Additional efforts need to be made to ensure access to justice and enforcement of rights in administrative and judicial proceedings, in particular for vulnerable groups.

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

- amend and adopt legislation in line with the EU *acquis*, European and international standards on domestic violence, anti-discrimination, hate crimes and hate speech, harmonisation of the 2020 Law on same-sex partnership, and data protection;
- amend the criminal legislation in line with the EU *acquis*, European and international standards for the protection of fundamental rights and procedural rights;
- more efficiently protect fundamental rights, in particular for vulnerable groups, and ensure the harmonised interpretation of European Court of Human Rights case-law and European and international human rights standards throughout the justice system, including by improving inter-institutional cooperation.

Montenegro continues to maintain a regular dialogue and cooperation with international human rights organisations and monitoring bodies. Overall, Montenegro fulfils its obligations under **international human rights instruments** and legislation. However, it has yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, signed in October 2006; the 2014 Protocol to the 1930 Forced Labour Convention; and the 2019 Framework Convention on Tourism Ethics of the UN World Tourism Organization. Montenegro is late with its submission of reports to the International Covenant on Economic, Social and Cultural Rights (due in 2019), and the International Convention on the Elimination of All Forms of Racial Discrimination (due in 2021). Montenegro did not improve its systematic mechanisms for reporting to the UN human rights mechanisms and following up on their recommendations as recommended during the 2018 Universal Periodic Review (UPR). During its fourth UPR session on 8 May 2023, the country received 247 recommendations, out of which it accepted 225, noted 15, and will determine its position regarding seven recommendations by October. Most recommendations concern gender-based violence, hate speech and hate crime, other forms of discrimination, human trafficking, torture and ill-treatment and threats against journalists.

Montenegro continues to ensure good cooperation with the **European Court of Human Rights (ECtHR)**. In June 2023, there were 89 applications pending before the ECtHR. The ECtHR did not deliver any judgments in respect of Montenegro during the reporting period (against 5 in 2022). In the reporting period, 292 new applications were allocated to a decision body. Currently, there are no cases under close supervision by the Committee of Ministers.

Concerning the **promotion and enforcement of human rights**, institutional capacity has yet to be further strengthened, including by allocating appropriate funding. The role of the Constitutional Court in providing legal remedy for human rights violations was undermined,

due to the Court's incomplete composition as explained in the judiciary section of this report. The internal set-up of the Ministry of Human and Minority Rights should improve and address all areas related to fundamental rights, including by ensuring the necessary human resources are in place. Changes in the management and structure of the Ministry introduced in July 2022 undermined its capacity to promote fundamental rights, enforce the legal framework, draft new legislation, and implement and monitor existing strategies and policies. Key staff responsible for the rights of persons with disabilities and anti-discrimination were removed.

Montenegro has yet to adopt a comprehensive monitoring and data collection system in order to assess the level of implementation of human rights legislation, policies, and strategies.

The Ombudsperson's Office continues to be perceived as one of the most trusted institutions by Montenegrin citizens, and its views are often quoted in the media. The regulatory and institutional framework for its appropriate functioning is largely in place. It continues to be accredited with 'B' status by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions. Montenegro should take measures to better align this framework with the Paris principles so that it could be upgraded to an 'A' status. The Ombudsman's capacity to handle complaints and the quality of its decisions continued to improve. However, the decisions and recommendations of the Ombudsman remain non-mandatory, and Montenegro needs to improve their systematic follow-up across all public institutions. The draft 2023 budget for the Ombudsperson's Office increased by 17% compared with the 2022 budget. However, this increase is partly due to the November 2022 government decision on raising the basic salary of certain institutions rather than reflecting an increase in the operational budget. The human resources capacity of the Ombudsperson's Office appears to be sufficient and stood at 36 employees as of December 2022.

In 2022, the Office dealt with 1 109 complaints (2021: 1 123), 890 of which it received in 2022 and 219 of which were transferred from 2021. It closed 979 cases (88.27%) (770 cases from 2022 and 209 cases from 2021). Of these, 343 cases were closed for lack of procedural requirements and reference to other legal remedies (126 cases were not in the mandate of the Office, 108 cases were closed due to inadmissibility, and 109 cases were referred to other legal remedies). The Office conducted investigations in 576 cases: in 94 cases, no infringement was found; in 327 cases, an infringement was found, with 89 infringements remedied in the course of the investigation; and in the remaining infringement cases, the Office issued opinions in 238 cases, with 658 recommendations. In 86 cases, the Office pointed at failures of public authorities to take preventive action. In 2 cases, it provided recommendations to adopt new legislation or amend laws or regulations. Most cases were related to violations of labour and employment rights, peaceful enjoyment of property, healthcare, right to privacy, right to legal remedy, and environmental protection. In its 2022 annual report, the Ombudsperson's Office found shortcomings in the reaction of state institutions to final court judgments.

By the end of 2022, the backlog of cases pending before the Constitutional Court included 2 564 related to the protection of human rights. Montenegro must ensure that the duration of proceedings before the Constitutional Court is reduced to guarantee the 2015 ECtHR's stand on the effectiveness of the constitutional complaint as a legal remedy in the country.

As regards the **prevention of torture and ill treatment**, on 22 June 2023, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT) called upon the Montenegrin authorities to investigate cases of police brutality and change 'the current culture of police impunity' and warned of poor conditions and severe overcrowding in remand prisons in Podgorica and Bijelo Polje in its latest report published in June 2022. In

May 2023, Montenegro submitted its report on the follow-up to the UN Committee against Torture (CAT) concluding observations of May 2022. Montenegro is in the process of amending its Criminal Code and Criminal Procedure Code to comply with 2017 and 2022 CAT recommendations to align the definition of torture with the Convention, punish acts of torture or ill treatment with penalties commensurate with their grave nature, and abolish the statute of limitations for the crime of torture. On 8 June 2023, the government adopted amendments to the Law on legal aid. Under these amendments, victims of torture and other forms of ill treatment as well as victims of crimes against sexual freedom and children who initiated proceedings for the protection of the rights of the child would be recognised as privileged users of the right to legal aid. The government requested the European Commission's assessment of the draft amendments to ensure alignment with the EU *acquis* and European standards, but failed to wait for it. The amendments have not been adopted by the Parliament.

Montenegro must step up its efforts to conduct efficient, effective and independent investigations to address police torture, violations, and illegal use of coercive measures. Following evidence of police torture leaked in the press, the Minister of Interior suspended four police officers from the Unit for Special Operational Support accused of extorting testimony using serious violence. However, no judicial follow-up has been made so far.

The National Preventive Mechanism (NPM) upgraded its "Methodology for implementing the duties and powers of the National Preventive Mechanism", incorporating the latest international standards and practices. In 2022, the NPM decided on the remaining 21 cases (out of a total of 27) concerning the conduct of police officers during the enthronement of the Metropolitan in the Cetinje Monastery on 5 September 2021. It found excessive use of chemical agents in all cases and a violation of Article 3 of the European Convention on Human Rights (prohibition of torture) and Article 28 of the Constitution of Montenegro (dignity and inviolability of persons). Investigations are still ongoing and there are no court proceedings yet. Visible identification markings (names, surnames, number of official badges, etc.) were introduced on police uniforms and protective helmets enabling identification and efficient investigations, but their use is not systematic. The NPM determined a violation of Article 3 of the Convention in one case of abuse in the women's prison in Podgorica. In six cases related to prohibition of torture and cruel, inhuman or degrading treatment or punishment in the work of the Police Administration, the NPM determined violation of rights in three cases.

Some progress was made towards implementing the CPT's 2019 recommendations on the **prison system** and conditions of detention. In July 2022, the government adopted the final report on the implementation of the action plan for the implementation of the 2017-2021 strategy for the execution of criminal penalties. On 22 June 2023, the government adopted the new strategy for 2023-2026 but its accompanying action plan for 2023-2024 has yet to be adopted. The Administration for Execution of Criminal Sanctions (AECS) initiated 11 disciplinary proceedings for breaching official duty, but not regarding abuse of power or authority in respect of torture or inhuman treatment of people deprived of their liberty. Hiring of staff and capacity building continued. Prisoners continue to enjoy access to programmes and occupational activities. Parts of the existing prison and remand facilities underwent adaptation and modernisation to improve the facilities. Preparations for the construction of the new prison facility in Mojkovac for the north of Montenegro and four facilities in Spuz (a special health institution, a reception, a multifunctional facility, and an open-type prison) continued and are not finalised. The AECS initiated activities to improve its capacity for implementing occupational therapy for prisoners. Several NGOs provided educational,

recreational and vocational activities for prisoners. In April 2022, there were 605 convicts, 19 of which were women, which is in accordance with the available places. The number of detainees is 464, 16 of which are women; 56 are accommodated in the pre-trial detention unit in Bijelo Polje and 408 in the overcrowded pre-trial detention unit in Podgorica, which has only 292 places. In 2022, the NPM conducted 40 visits and issued 81 recommendations to institutions and relevant ministries, 39 of which were implemented. The NPM received 70 complaints from people deprived of their liberty and found evidence of inhuman and degrading treatment in three cases, related to the poor material conditions of accommodation, inappropriate healthcare, and ineffective investigation into allegations of abuse. Despite some improvement, the material conditions in prisons, pre-trial detention facilities and psychiatric hospitals are still below international standards. Living conditions in the women's prison are decent and hygiene is satisfactory, but in the overcrowded Dobrota psychiatric hospital, living conditions and hygiene remain poor.

Montenegro must still adopt a new law on **personal data protection** in line with the EU *acquis*, the General Data Protection Regulation and the Law Enforcement Directive, and the EU Law Enforcement Directive. Subsequently, around 200 laws and implementing acts that contain rules on the processing of personal data will need to be harmonised with both new laws. Montenegro has not yet signed the 2018 Council of Europe Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS 223). The human resources capacity of the Agency for Personal Data Protection and Free Access to Information needs to be strengthened as only 63% of its positions are effectively filled. The financial resources of the Agency should match its responsibilities, also in view of the planned broadening of its tasks, and the Agency's financial independence should be guaranteed. The lack of IT expertise in the Agency (with only one supervisor) and absence of a digital case management system negatively impact its work. The new tasks and powers planned for the Agency in the new draft law will exacerbate the issue of insufficient staff. In 2022, the Agency carried out 127 inspections in the field of personal data protection (13 control inspections, 78 inspections based on submitted initiatives, and 39 inspections based on requests for protection of rights). Following the dismissal of the Agency's President and one member of the Council in December 2021, the work of the Agency was blocked until the appointment of a new President and a new Council member in August 2022.

The state paid more than EUR 1.2 million to ca. 1 000 citizens who had won a lawsuit against the state for violating the right to privacy and personal data as well as the right to private and family life by publishing their names on a list of individuals subject to COVID-19 self-isolation measures in spring 2020.

In the area of **freedom of thought, conscience, and religion**, in 2022, the Ministry of Justice allocated EUR 610 581 to religious communities, EUR 585 000 of which to the Serbian Orthodox Church and EUR 30 000 to all other religious communities. In October 2022, the premises of the Montenegrin Orthodox Church in Podgorica were stoned. Also in October 2022, a day before the 10th Pride, the Serbian Orthodox Church organised a religious ceremony for the preservation of the sanctity of marriage and family. In November 2022, the Basic State Prosecutor opened an investigation into police behaviour during a six-hour interrogation of the late Metropolitan of Montenegro and the Littoral Amfilohije about violating anti-COVID-19 measures in June 2020. In February 2023, the Basic Court in Podgorica acquitted the Metropolitan of Montenegro and the Littoral Joanikije and 8 Niksic priests of charges of having acted contrary to the Health Ministry's orders to prevent the spread of a dangerous infectious disease by organising a prayer walk in Niksic in 2020 in which thousands of people participated. In February 2023, the Ombudsman opened a case

regarding the celebration of a Russian religious holiday in several schools in Podgorica, which is forbidden by law.

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### **Freedom of expression**

Montenegro has a pluralistic and diverse media landscape and has **some level of preparation** in the area of freedom of expression. Overall, **limited progress** was achieved. In general, the authorities provided prompt and effective law-enforcement and institutional responses to new cases of violence against journalists. However, there was no effective judicial follow-up of old cases. Despite the commendable practice of extensively involving civil society and media stakeholders in the drafting of new media legislation, the government failed to finalise the legislative proposals and present them to the Parliament. This is now long overdue. The authorities need to step up efforts to effectively address the pending recommendations of the ad hoc commission for monitoring violence against the media, particularly regarding important old cases. Radio Televizija Crne Gore (Radio Television of Montenegro – RTCG), the national public broadcaster, continued to produce politically balanced content, including during election periods. The RTCG must meet the highest standards of media integrity and accountability. Further sustained efforts are needed to counter disinformation and limit the effects of online harassment and hate speech without disproportionately limiting freedom of expression. The media environment remains highly politically polarised, with uneven application of the journalistic Code of Ethics and professional standards. Credible and effective self-regulation mechanisms have yet to be set up to strengthen media integrity and professionalism.

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

- provide prompt and effective law-enforcement and institutional protection to journalists against all forms of violence, including full and effective judicial follow-up in critical old cases;
- put in place clear safeguards against any form of undue influence on the editorial, institutional or financial independence of the public broadcaster, the RTCG, which needs to abide by the highest standards of professional integrity and accountability;
- urgently complete the revision and adoption of media legislation in line with the EU *acquis* and relevant European standards, and ensure these are introduced into the new media strategy.

### Intimidation of journalists

The institutional and law-enforcement response to address new cases of violence against journalists and media workers continued to improve. During the reporting period, new cases of violence received a prompt and effective institutional and law-enforcement response. However, there was no tangible breakthrough in critical old cases, including the 2004 murder of the editor-in-chief of the daily newspaper Dan and the 2018 shooting of an investigative journalist. In 2022, the authorities registered 22 cases of violence against journalists, involving threats, intimidation, harassment and, in several instances, physical violence. In 13 of these cases, the prosecution authorities opened criminal proceedings. From 1 January to 31 May 2023, the police registered a total of five cases of violence against journalists, one of which was classified by the prosecution authorities as a criminal offence prosecutable *ex officio*. From 1 January 2023 until 31 March 2023, the courts dealt with 15 cases of crimes

committed against journalists or media property. The courts delivered judgments in eight cases, including seven convictions and one acquittal. In the remaining cases, criminal proceedings are ongoing.

In January 2023, the Appellate Court acquitted investigative journalist Jovo Martinovic of drug smuggling charges. The acquittal came after seven years of criminal proceedings, in which Martinovic received a sentence of one year in prison and spent 15 months in pre-trial custody.

In September, December 2022, and July 2023 the government adopted reports of the ad hoc commission for monitoring violence against the media. The commission issued new recommendations with reference to the long-lasting or ineffective investigations into cases of violence against journalists, while also urging the prosecution authorities to provide additional information on several cases. The authorities need to address, fully and effectively, the commission's pending recommendations, particularly regarding the critical old cases of attacks on journalists, and to provide the commission with all the necessary means to perform its work. In May 2023, the government extended the commission's term for two more years.

Instances of senior public officials engaging in strongly worded public criticism of media continued to occur. The authorities should promptly react to and publicly condemn all forms of violence against media, whereas public officials should refrain from exercising political pressure on journalists, including through public statements.

#### Legislative environment

The working group tasked with amending the media legislation prepared draft laws on media, on audiovisual media services and on the national public broadcaster, the RTCG, through an inclusive dialogue with media and civil society. The government organised a 40-day public debate on the three draft laws, which ended in December 2022. However, the adoption of the draft media laws was repeatedly delayed. The government adopted in October 2023 a new 2023-2027 media strategy .

#### Implementation of legislation/institutions

The media environment is pluralistic, but remains highly politically polarised, with generally ineffective self-regulation mechanisms and uneven application of the journalistic Code of Ethics and professional standards. In 2022, the Ombudsman registered 16 cases of hate speech and 14 cases in the area of public discourse and media, including discrimination on the grounds of ethnic and gender identity. In October 2022, the Council of the Agency for Electronic Media awarded a national broadcasting licence to another Serbian-owned media outlet. In December 2022, the Council appointed a new Director. In August 2022, the Council dismissed its former Director, after finding him in breach of conflicts of interest rules. The Podgorica Basic Court overturned the dismissal as unlawful in a first-instance ruling in May 2023, which the Council has appealed.

#### Public service broadcaster

The public broadcaster, the RTCG, continued to pursue a balanced editorial policy, providing a broad range of political stakeholders with opportunities to present diverse political views on all its platforms, including during municipal, presidential, and parliamentary elections. In January 2023, the Podgorica Basic Court overturned the RTCG Council's decision to appoint the public broadcaster's Director-General as unlawful. In May 2023, this ruling was upheld, in second instance, by the Podgorica High Court. In June 2023, the Council reappointed the same person as RTCG Director-General, causing a strong public reaction from multiple CSOs, which accused the RTCG Council of abuse of office and failure to comply with a final

and enforceable court decision. The prosecution authorities opened a criminal investigation into the case. An effective legal remedy in cases where the Parliament dismissed RTCG Council members has yet to be provided, either through case-law or through legislation.

#### Economic factors

Because of the relatively small size of Montenegro's economy, the advertising market is limited. This affects the economic sustainability of media outlets, leaving them particularly exposed to political and corporate interests, both from within the country and from abroad. All commercial TV channels with national broadcasting licences are controlled by Serbian owners. The authorities continued to provide state funding for content of public interest in broadcast, print and online media. They also continued to provide state funding for media self-regulation, through the Media Pluralism and Diversity Fund, introduced under the 2020 Media Law. The provisions of the Media Law that aim to ensure the transparency of public financing of the media are yet to be consistently and fully implemented. The long-overdue sectoral collective agreement for the media industry has yet to be signed, to improve the socio-economic position of media workers, providing them with additional rights and benefits not covered by the general collective agreement.

#### Internet

Although rarely present in the mainstream media, hate speech, disinformation, and hateful and insulting personal remarks remained prevalent in the comments sections of online news portals and on social media platforms. Multiple online news portals, including certain outlets with considerable readership, remained unregistered and continued to breach the applicable media legislation. The requirement under the applicable Law on media to remove illegal third-party comments from online media platforms should be amended in a manner that does not place an undue administrative burden on online media, particularly on smaller services.

Montenegro does not have a strategy for a better internet for children, including to ease the detection of and response to online child sexual abuse.

#### Freedom of artistic expression

Freedom of artistic creation and publication of works of art, as guaranteed by the Constitution, was generally respected, without any notable cases of restriction.

#### Professional organisations and working conditions

In January 2023, one of the national journalists' associations presented its annual award for the best news portal to Sputnik-Serbia.

Journalists and trade unions continued to report overall poor working conditions of most media professionals, including low salaries, unpaid overtime work, security risks, self-censorship, and various forms of pressure and undue influence both from media owners and third parties. Employees in local public broadcasters continued working in particularly challenging professional and socio-economic circumstances, being directly exposed to editorial influence and financial control by the local authorities.

The very weak media self-regulation remains a matter of concern. The rare existing self-regulatory bodies have a limited impact, as even media outlets and journalists themselves tend to bypass them and take cases against their competitors directly to courts.

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The rights to **freedom of assembly and association** remain broadly respected. Of all public assemblies, 61% took place with authorisation following prior notification to the Police

Administration. In 2022, four public assemblies resulted in violence or disorder (2021: 21), none of the registered assemblies resulted in the use of police force, and 1 protest was temporarily banned by the police due to late notification. Amendments to the Law on public assemblies and public events to regulate spontaneous assemblies more precisely are still outstanding.

There was no progress regarding **property rights**. The process of restitution of properties expropriated in the past remained slow; some restitution cases have been pending for 19 years. The 2020 ECtHR decision in the ‘Nesic v. Montenegro’ case on returning coastal property expropriated by the Public Enterprise for Coastal Zone Management of Montenegro has not been implemented although the Montenegro Supreme Court ratified it in December 2020. Montenegro needs to ensure fair restitution proceedings within a reasonable time and full independence of the three Regional Restitution Commissions (Bijelo Polje, Bar and Podgorica).

There was no progress towards adoption of a new law that would ensure full compliance of national legislation with the EU *acquis*, European standards on **anti-discrimination**, and the 2017 recommendations of the European Commission against Racism and Intolerance.

Societal polarisation, misogyny and hate speech increased. Vulnerable groups, including Roma and Egyptians, persons with disabilities and the LGBTIQ community continued to experience multiple forms of discrimination and challenges in exercising their equal rights and were occasionally exposed to hate speech and hate crime. There is an urgent need to effectively address all forms of discrimination by using legal protection mechanisms. People’s acceptance of and respect for pluralism in society needs to be stimulated from an early age through engagement with young people and adults to promote behavioural changes and tolerance of diversity. According to a December 2022 Center for Democracy and Human Rights survey on discrimination, 67% of respondents (2020: 57%) believe that discrimination is present in Montenegro and mainly on the ground of political belief. In 2022, the Ombudsperson’s Office received 256 complaints of discrimination, an upward trend compared with 2021 (173). This may imply that trust in the work of the Ombudsman is growing, or that potential victims are more empowered to report discrimination. As in previous years, most complaints were related to labour and employment. In 2022, the Ombudsman processed 16 cases of hate speech and 14 cases in the field of public discourse / media. The Ombudsman established hate speech based on social or ethnic origin in one case; based on sex, change of sex and gender identity in three cases; based on nationality in two cases; and based on political or other opinion in one case. In the area of public discourse, the Ombudsman established discrimination based on nationality in one case; based on social or ethnic origin in one case; and based on political or other opinion in one case. The 2017 priority recommendation of the European Commission against Racism and Intolerance to put in place a system for collection of disaggregated data on hate crime has still not been implemented as this depends on the pending amendments to the Criminal Code.

On **gender equality**, limited progress was achieved. The implementation of the 2021-2025 national strategy continued. However, Montenegro must address the issue of gender-based violence and domestic violence by amending the strategy. The legislative framework on gender equality still has a limited impact due to insufficient political will to prioritise this issue in the overall governmental accountability mechanisms.

Women remain under-represented in political and economic decision-making. In the new Parliament, out of 81 MPs in total, only 17 are women, which represents a slight reduction compared with the previous Parliament, which had 18 women MPs. Women make up only a quarter of the public administration’s total management, often due to explicit or implicit bias

in hiring, training, and promotion practices. Smear campaigns, hate speech and use of gender-based violence against women in politics and public life still persist although the number of cases fell slightly.

The 2023-2024 action plan of the 2021-2025 national strategy for gender equality is under preparation. There is an urgent need to effectively address deeply rooted societal behaviour that degrades and discriminates against women, resulting in instances of gender-based violence.

The Ministry of Human and Minority Rights started to cooperate closely with the public broadcaster RTCG, and organised training courses on gender-based hate speech, sexism and misogyny for journalists and RTCG employees.

**Gender-based violence**, in particular domestic violence, remains a serious and persistent issue and the most extreme manifestation of gender inequality in Montenegro. Despite a solid legal framework, there is a lack of systemic gender responsiveness and women-friendly procedures for victims of violence. Limited specialisation of justice, social, health and police professionals dealing with gender-based violence and violence against women remains a challenge. The investigative and judicial practice remained very lenient, enforcing only some protective measures in misdemeanour proceedings and imposing very few security measures in criminal proceedings. Such practice is not in line with international standards, above all with the practice of the ECtHR, which requires state authorities to implement proper investigation in case of domestic violence and to take measures for appropriate criminal prosecution. In the reporting period, of all imposed misdemeanour penalties, fines made up one third (32, i.e. 36%) and suspended sentences one fifth (21, i.e. 6%), while prison sentences are still rarely imposed (10%).

Women's associations remain an important factor in supporting victims of gender-based violence and in organising various training sessions and awareness-raising campaigns. However, these organisations are facing constant financial constraints.

In August 2022, the Ministry of Labour and Social Welfare set up the Directorate for Gender Based Violence, which is an important milestone in developing a proper institutional infrastructure to enable appropriate implementation of the Istanbul Convention and to give due attention to monitoring and advancement of the protection and prevention systems. However, Montenegro should allocate appropriate funding to the Directorate, to ensure it is fully operational, as it is currently unable to provide efficient and appropriate support.

In December 2022, the Gender Equality Committee hosted the 15th session of the Women's Parliament, on the topic of combating violence against women, as part of the campaign '16 days of activism against gender-based violence'.

Crisis centres and clear protocols for victims of sexual violence have not been created yet.

In the area of **rights of the child**, the legislative and institutional framework is largely aligned with international human rights instruments, including all areas covered by the UN Convention on the Rights of the Child and its optional protocols. However, challenges remain in effective implementation due to a poor accountability framework, inappropriate and insufficient capacity, lack of systematic monitoring and sufficient funding, and lack of quality assurance of existing laws, strategies, and action plans. The systematic collection of reliable and comparable data disaggregated by age and sex is essential for setting evidence-based policy priorities and ensuring effective protection of children.

In July 2022, the government set up the Council for the Rights of the Child for the first time at Prime Minister level. However, its inaugural session took place only on 13 March 2023,

when it adopted an action plan for 2023-2024. On 26 May 2023, the Council adopted specific measures the government must implement in 2023 to prevent cases of violence among children, adolescents and young people. Montenegro must step up its efforts to monitor the implementation of the national strategy on exercise of child rights (2019-2023), evaluate its impact and prepare the fourth periodic report to the UN Committee on the Rights of the Child due by November 2023.

In 2022, the Ombudsman received 225 complaints related to rights of the child (2021: 216). These cases were predominantly related to education, social and child protection, healthcare, rights of children in family relationships, peer violence, as well as rights of children with disabilities. Besides an increase in domestic violence, peer violence at school remains an alarming trend. Child access to justice, in particular of vulnerable groups, has yet to be improved, and child-friendly proceedings for all children in contact with the law have yet to be ensured. This refers both to children in criminal proceedings (child offenders, child victims and children witnesses) and to children in proceedings related to civil or family law and misdemeanour proceedings. There was no progress regarding the follow-up on the UN monitoring bodies' recommendations and on Resolution 1468 of the Council of Europe Parliamentary Assembly to amend the Family Law and raise the minimum age for entering a marriage to 18 years. The practice of arranged child marriages, in particular among the Roma and Egyptian communities, remains a matter of serious concern. MONSTAT's 2021 survey on income and living conditions, published in December 2022, shows that every third child in Montenegro lives at risk of poverty.

There is no satisfactory level of protection of children from perpetrators of sexual offences and there is still a lack of systematically collected disaggregated data on child sexual abuse and sexual exploitation. The strategy for the prevention and protection of children against violence and its action plan expired in 2021 and have yet to be updated. The current Criminal Code envisages tightening the penal policy regarding crimes of child sexual abuse (in line with the recommendations of the Lanzarote Convention), drawing up a register of offenders and surveillance measures against perpetrators after their time in prison. However, these new rules are not implemented due to the lack of implementing legislation. In 2022, the Police Directorate registered 23 criminal acts of child sexual abuse (three related to rape, five were qualified as child molestation, 11 related to illicit sexual acts, and four related to child pornography). The Criminal Code is yet to be revised to fully comply with the Convention on the Rights of the Child and its First Optional Protocol (on the sale of children, child prostitution, and child pornography) and legislation needs to address online child sexual exploitation. The National SOS Children's Line restarted operating in autumn 2022 after it had been inactive due to lack of funding. However, its working hours were shortened to eight working hours per day from the previous 24/7 schedule due to lack of resources, both financial and human. Montenegro needs to take the necessary steps to ensure that all children are registered systematically in birth registers.

In December 2022, the number of children living in institutional care was 110, slightly lower than in February 2022 (115). The drafting of a national strategy on deinstitutionalisation has been slow and organisations of persons with disabilities are not involved in the process.

Regarding the **rights of persons with disabilities**, there was no progress. Persons with disabilities in Montenegro cannot fully exercise their rights and continue facing multiple forms of discrimination. In July 2022, the Ministry of Human and Minority Rights abolished the Directorate for the Protection and Equality of persons with disabilities. Montenegro should set up such a directorate again or assign the relevant responsibilities to another service to oversee the implementation of the 2022-2027 strategy for protection from discrimination

of persons with disabilities and promotion of equality and its action plans for 2023. Montenegro has yet to adopt the draft law on a unified disability assessment body, which will be the basis for reforming the system to bring about more just, more equal and easier access to rights, enabling a shift from a medical to a human rights-based model. A decision allocating premises for the future institute for disability determination is pending the adoption of the draft law on a unified disability assessment body. Montenegro has yet to adopt the law on professional rehabilitation and employment of persons with disabilities, which would also regulate the location and management of the corresponding fund. The National Council for the rights of persons with disabilities, the entity in charge of monitoring the implementation of all laws and strategies to promote rights and to support better coordination on disability, is not functional. In May 2023, the Ombudsperson Office established an independent monitoring mechanism under the Convention on the Rights of Persons with Disabilities. The recommendations of the UN Committee on the Rights of Persons with Disabilities from 2017 are not fulfilled, especially regarding the necessary reform of guardianship and decision-making on behalf of persons with disabilities. Montenegro has not adopted an action plan to implement the Committee's recommendations. Some definitions of disability in Montenegrin legislation use derogatory terminology. On 7 December 2022, the Higher Court in Podgorica confirmed an earlier judgment of the Basic Court in Podgorica, which found that a person had suffered repeated disability-related discrimination by the Social Work Centres of Kotor, Tivat and Budva and the State of Montenegro. This is the first final judgment in Montenegro regarding the protection of persons with disabilities from discrimination in access to information and in proceedings before authorities.

There was no progress regarding the protection of the **rights of lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) persons**. Several attacks on offices of LGBTIQ NGOs and private apartments of LGBTIQ activists during the reporting period as well as many incidents of hate speech against LGBTIQ persons including on social media are a matter of concern. As a result of the July 2022 reorganisation of the Ministry of Human and Minority Rights, the responsibility for promoting and protecting the rights of LGBTIQ persons is not allocated to any specific service. The law on legal gender recognition is yet to be adopted. In October 2022, the 10<sup>th</sup> Podgorica Pride took place with the participation of several ministers and without any incidents. There was no progress in harmonising relevant implementing legislation with the Law on same-sex partnerships. In 2022, the Ministry allocated EUR 250 000 to LGBTIQ NGOs, 43% more funds than in 2021 (EUR 174 904). In 2022, the courts for misdemeanours processed 76 cases of discrimination or other forms of attack on LGBTIQ persons.

The amendments to the Criminal Procedure Code and the Criminal Code to fully align criminal legislation with the EU *acquis* and European and International standards on **procedural rights** for suspects and accused persons in criminal proceedings, and victims of crime are being drafted with the support of EU expertise. The amendments aim to tackle provisions on the right to information, the right to be present and participate at all stages of the proceedings, unjustified prolonged pre-trial detentions, insufficient protection of victims, in particular women and children, as well as the overall length of proceedings. Montenegro has yet to adopt a law on the procedural safeguards for children/juveniles in criminal proceedings. Comprehensive data on free legal aid is lacking as it depends on the development of the new judicial information system. In 2022, the budget allocated and implemented to legal aid amounted to EUR 108 776 (2021: EUR 121 500).

Amendments to the Law on protection against domestic violence are not in place. A systematic approach to dealing with and providing information to victims is still lacking. A

national strategy for the protection of victims' rights is under preparation. Montenegro still needs to stop the suspension of the Law on victims' compensation and secure sufficient funding for victims' support.

Regarding the rights of persons belonging to **minorities**, in December 2022, Montenegro submitted its sixth report on the implementation of the European Charter for Regional or Minority Languages and its fourth report on the implementation of the Framework Convention for the Protection of National Minorities. In September 2023, the Committee of Experts of the European Charter for Regional or Minority Languages published its seventh monitoring report on Montenegro, noting that shortcomings remain for the adequate use and protection of the Romani language in line with European standards and legislation. In April 2023, the report on the implementation of the 2022 action plan to implement the minority policy strategy for 2019-2023 was adopted, while the 2023 action plan was adopted in May 2023. There is still no equal treatment of minorities in the Parliament. Data on the implementation of the 2019-2023 minority policy strategy is not available. In July 2022, the Ministry of Human and Minority Rights set up a new Directorate for the advancement and protection of the rights of minority nations and other minority communities. In 2022, the Ministry allocated EUR 150 000 to NGOs working on rights of persons belonging to minorities. In November 2022, the Fund for the Protection and Realisation of Minority Rights allocated more than EUR 1 million to 195 organisations and individuals for the promotion of rights of persons belonging to minorities. In August 2023, the Special Prosecution Office opened a criminal investigation into the financial management of the Minority Fund. In March 2022, the Ombudsman issued an opinion to the Ministry regarding possible amendments to the Law on minority rights and freedoms to ensure direct appointment in Minority Councils based on the freely expressed will of minority nations and other minority national communities.

**Roma and Egyptians** remain the most vulnerable and antigypsyism remains a problem. There were no developments regarding the reduction of the threshold for political representation of Roma in the Parliament, as the Law on the election of Councillors and MPs was not amended. On 6 April 2023, the Parliamentary Committee for human rights and freedoms in cooperation with the Ministry of Human and Minority Rights and the Ombudsman organised the first sitting of the Roma Parliament. The Roma Council boycotted the sitting. On 19 October 2022, the government organised the third Roma ministerial meeting in Podgorica. The Ministers of all Western Balkan countries responsible for Roma inclusion agreed to act upon the commitments made in Poznan in 2019 and the first two ministerial meetings organised in Tirana (2020) and Sarajevo (2021). They also agreed to strengthen the ongoing work on Roma integration in the areas of housing, employment, green and digital agendas, and Roma responsive budgeting, and to adopt strong monitoring and reporting systems to measure progress on implementation of the new Roma strategies and the Poznan Declaration objectives with the assistance of the national statistical offices.

On 2 November 2022, the government appointed its national Roma contact point (NRCP), a position vacant since August 2020. The NRCP comes from the Roma community and is a long-term employee of the Ministry. However, the NRCP does not have a decision-making role in the Ministry and its limited capacity and resources remain major weaknesses. On 26 May 2023, the government adopted a Decision on the establishment of the coordination body for monitoring the implementation of Poznan Declaration commitments, chaired by the NRCP.

In 2022, 26 civil society organisations received public funds to implement projects in the area of Roma inclusion. In addition, in 2022, the Minority Fund supported 10 projects in the area

of Roma inclusion. The budget allocated for projects supporting Roma inclusion is increasing, but appropriate planning, monitoring and financial control are lacking.

In the 2022/2023 school year, 202 Roma children attended preschool education (92 boys and 110 girls), 1 833 attended primary school (950 boys and 883 girls), and 214 attended secondary school (122 boys and 92 girls). Currently, there are 14 Roma university students. There is an increase in the number of Roma education mediators working in various municipalities, 30 of whom are supported by the Ministry of Education. The legal framework still does not sufficiently support the enrolment of Roma students in higher education. Although Montenegro provides scholarships of EUR 150 per month, there are no additional incentives. Overall, the quality of education of Roma children remains an area of great concern.

In 2022, the Ombudsman conducted a field survey in Roma settlements in 13 municipalities. Preliminary findings show that Roma and Egyptians live in less segregated settlements than 6 or 7 years ago, but 42.2% of Roma still live in settlements populated only by Roma. The problem of overcrowding in Roma households persists, with slight improvements in terms of access to water, power supply, and possession of basic appliances.

The country does still not systematically address child begging and child marriages, and neither does it take sufficient steps to fulfil its pledges to address statelessness as recommended by the United Nations High Commissioner for Refugees (UNHCR). The Romani language is underused and not taught in schools.

Regarding displaced and **internally displaced persons**, from 7 November 2009 to 1 June 2023, there were 15 271 requests for permanent or temporary residence. Of these, 15 159 requests were resolved, and 112 cases are still pending. A total of 12 410 people received permanent or temporary residence up to three years, 297 requests were refused, and 2 448 cases were suspended due to incomplete or duplicated requests.

Between the entry into force of the new Law on foreigners in 2018 and March 2023, nine people were recognised as stateless, while for 17 the procedure for determining statelessness is ongoing. Montenegro has yet to adopt amendments to the Law on foreigners to strengthen the statelessness determination procedure, primarily regarding procedural guarantees and access to rights during the procedure and upon recognition of stateless status. This is a concern.

According to the UNHCR, there are currently around 500 people at risk of statelessness in Montenegro. Through close cooperation between the Ministry of Interior and the UNHCR, the new birth registration practice for this specific group of people yielded results: the Ministry of Interior completed birth registration of all stateless children in Montenegro known to the UNHCR and continuously strengthens the birth registration procedure. The public consultation regarding the amendments to the Law on foreigners and statelessness determination procedure in Montenegro was completed. The Ministry of Interior proposal would grant the right to initiate the statelessness determination procedure to a person with habitual residence in Montenegro of at least three years before the initiation of statelessness determination procedure, or whose family members are citizens of Montenegro, or to foreigners with permanent/temporary residence. According to the UNHCR, access to statelessness determination procedure remains an issue of serious concern, as it limits the fairness of the process and is seen as not being in line with 1954 Statelessness Convention.

On **citizenship rights**, the investor citizenship scheme expired on 31 December 2022. There should be no further scheme. Pending applications should be thoroughly screened, as should the origin of funds generated by the scheme, for which no Montenegrin body has taken

responsibility.

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

*The EU has common rules for border control, visas, external migration and asylum. Schengen cooperation entails lifting border controls inside the EU. Member States also cooperate with Montenegro in the fight against organised crime and terrorism, and on judicial, police and custom matters, all with the support of the EU justice and home affairs agencies.*

Montenegro is **moderately prepared** in the area of justice, freedom and security. The legislative and institutional frameworks are largely in place. **Limited progress** was achieved, by starting to address the critical lack of human resources for border management, taking initial steps to align the visa policy with the EU's list of visa-required third countries, and earmarking state funds to increase the accommodation capacity for migrants. However, overall, last year's recommendations remain largely valid.

In the coming year, Montenegro should in particular:

- limit the use of plea bargains to exceptional cases, to further increase the transparency and credibility of the judicial response to organised crime through a more deterrent and consistent sanctioning policy;
- align the legal and operational approach to financial investigations, asset seizure and confiscation and the fight against money laundering with EU and international standards, and establish a convincing track record in these areas;
- further strengthen border management capacity by addressing critical gaps in border surveillance equipment; take the necessary steps to set up an Advance Passenger Information System and a biometric migrant registration system; further align Montenegro's visa policy with the EU's list of visa-required countries, in particular with regard to countries presenting irregular migration or security risks to the EU; take measures to further address the protection needs of migrants and increase administrative capacity in the area of returns.

### Fight against organised crime

Montenegro is **in between some and moderate level of preparation** in the fight against organised crime. **Some progress** was made in addressing last year's recommendations, in particular as regards the efficiency of criminal investigations. Montenegro increased the number of investigators and experts in key areas, such as financial investigations, cybercrime and special investigative measures.

Montenegro implemented an ambitious human resources reform of the police: it created new posts, set up new units and recruited new staff. Prominent members of organised crime groups were arrested, along with some top-level officials from law enforcement agencies, pointing to a deep infiltration of organised crime into state structures. However, there was no final court decision on organised crime in the areas of tobacco smuggling, money laundering, trafficking in human beings or cybercrime. The track record in final asset confiscation remained very limited. Montenegro has yet to address some systemic shortcomings affecting its criminal justice system across the board, including the way organised crime cases are handled in courts.

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

- continue increasing the efficiency of criminal investigations by setting up a fully

functional interoperable system with a single search feature and a case management system shared between prosecutors and investigators;

- address the lengthiness of trials and frequent adjournments in organised crime cases; ensure stronger mutual understanding between courts and the prosecution of key legal concepts such as money laundering and the quality of evidence;
- address the risks of corruption and infiltration of organised crime into law enforcement agencies and the judiciary by implementing a strong prevention policy and providing a stringent judicial response to detected cases.

### Institutional set-up and legal alignment

The number of police officers fell to 3 980 in 2022 (from 4 586 in 2021). A total of 375 officers retired and 105 administrative staff moved to the Ministry of Interior. The ratio of police officers remains high, at 639 per 100 000 inhabitants, compared with an EU average of 335.3 per 100 000 inhabitants (Eurostat, 2019-2021). However, unlike most EU Member States, Montenegro counts border guards as police officers (1 540 staff members), as well as non-operational staff such as advisers and officers without police rank.

Montenegro continued to work on amendments to its legal framework for the fight against organised crime, often with EU expert support, to align it with the EU *acquis* and address existing loopholes. However, in most cases, adoption of the legislation is still pending. The draft amendments to the criminal code, that are needed to align it with the EU *acquis* on a large range of topics, such as trafficking in human beings and anti-money laundering, are still pending adoption.

Montenegro has yet to adopt the amendments to the Law on seizure and confiscation of material benefit derived from criminal activity, drafted to address legal obstacles to the confiscation of criminal assets. In February 2023, the government adopted a first version, which did not take into account the European Commission's comments. Eventually, a working group was set up to review the draft.

In December 2022, the Parliament adopted amendments to the Law on internal affairs relating to the conditions of retirement of police officers. It also adopted one amendment to the existing Law on games of chance and prize competitions, with the limited objective of introducing a mandatory audio-visual surveillance system for games of chance, but without addressing any of the other issues with the current law.

The Central Bank of Montenegro has a central register of resident accounts, but still does not have a register of non-resident accounts, a crucial tool for investigations involving non-residents. Montenegro did not address the problem of the incomplete and not fully digitalised land cadastre, which hampers the conduct of financial investigations, the confiscation of assets, and the implementation of internal penalties. A centralised database on organised crime and corruption cases, containing data collected from all relevant authorities is needed for reporting, monitoring and policymaking purposes.

In the area of firearms, a revised Law on weapons, aimed at aligning rules on marking of firearms and technical specifications with EU standards, has been pending adoption by the Parliament for two years. Adoption of the law was not on the parliamentary agenda during the reporting period.

In the area of trafficking in human beings, the revision of the criminal code is needed, to align it with the EU *acquis*.

Montenegro increased the budget allocated to the Special Prosecutor's Office (SPO) by

EUR 2 million. A total of 20 new posts were created for administrative staff and IT and financial experts, bringing the number of posts for support staff to 55. Recruitments are ongoing. However, the number of Special Prosecutors (11, including the Special Chief Prosecutor) remains insufficient to cope with the SPO's heavy workload. Special Prosecutors handle up to 100 organised crime or high-level corruption cases each. This is due to the very broad description of the SPO's mandate in the law, which includes smaller and simpler cases, which could be handled by other prosecution services. Some thematic specialisation of Special Prosecutors was introduced. In September 2022, the government adopted a decision to transfer the SPO (together with the State Supreme Prosecutor and the Special Police Unit) to another government building, to address its current precarious housing and security conditions. However, the SPO's removal can only take place after the necessary refurbishment.

In March 2023, a police development strategy for 2023-2026 was adopted. An ambitious human resources reform of the police was implemented in 2022. Further to the adoption of a new rulebook on internal organisation of the Ministry of Interior and the police in August 2022, 239 new posts were added to the Directorate for the fight against organised crime, either through internal transfers of posts from other Directorates or through the creation of new posts. The unit in charge of special investigative methods benefited the most from this increase, with an increase in posts from 72 to 121. The number of Special Police Unit posts rose from 32 to 50. A new unit in charge of financial investigations and the fight against corruption and economic crime was created. The number of posts in the group for fighting drug smuggling rose to 25. In the area of firearms, a specialised team was created, with 8 job positions dedicated to the investigation of firearms smuggling offences. However, only 50% of the new posts have been filled so far. For some posts, a 10 to 20% salary increase was introduced, to attract and retain more specialised profiles in the police.

At the same time, the government did not adopt a human resources plan, which is required by the Law on public administration and has been ready for adoption since 2020. Because of this, the appointment of all five Deputy Police Directors and other senior positions is blocked. The Deputy Police Directors have been in an acting position for three years.

In March 2023, the Deputy Police Director in charge of the fight against organised crime was arrested on the Special Prosecutor's order on suspicion of having collaborated with organised crime groups between 2018 to 2020. This prompted a major reshuffle in the police. On 30 March 2023, the government dismissed the Police Director, who had been in function since August 2021. He was replaced by the Chief of Budva's regional police branch. The decision was not taken in accordance with the rule on dismissal of Police Directors, which provides that the dismissal of Police Directors is triggered by the Parliament's Security and Defence Committee, and not by the government. The former Police Director lodged a complaint against the decision of the government with the Administrative Court of Montenegro.

At the same time, a large-scale reshuffling of heads of units and middle managers in the Criminal Police Directorate was launched. Some 19 new heads of regional offices and central units were appointed by the new Police Director. The department for the fight against serious criminal offences was dismantled and all its officers were temporarily suspended. The equipment of this department was transferred to the Special Police Unit. The Head of the Special Police Unit was promoted to the post of Deputy Police Director in charge of the fight against organised crime, replacing the arrested former Deputy Director, while remaining Head of the Special Police Unit. He was also appointed as main contact person for the cooperation with Europol. Merit-based appointments and procedural safeguards against

political influence need to be guiding principles in the reform of the police.

The percentage of women in the police has increased from 9% to 13.8% in the last ten years, with 20 women in middle- or low-level managerial positions (8.5% of all managerial positions). There is no woman at senior management level.

#### Implementation and enforcement capacity

In 2022, Montenegro's law enforcement agencies had key successes in the fight against criminal networks and arrested 24 members of the so-called Balkan Cartel group, suspected of drug smuggling. In 2022, the SPO launched 17 new investigations into organised crime against 140 people and five legal entities (2021: 13) and brought indictments in 13 cases against 103 people and six legal entities.

The proactive approach of the SPO was reflected in an unprecedented number of high-profile cases, suggesting a deep infiltration of organised crime into state structures and law enforcement agencies. The cases currently under investigation or pending before the courts involve, among other people, a former Special Prosecutor, the former President of the Commercial Court, the former President of the Supreme Court, the former Director and a staff member of the National Security Agency, the former Director of the customs and several customs senior officials, a former Acting Deputy Police Director and several police officers, a former official of the penitential administration, the mayor of Budva, a former prosecutor of a Basic Court, etc. The prosecution of the former President of the Supreme Court of Montenegro, of her son, her former bodyguard and nine other people led to an indictment in October 2022. They are suspected of creating a criminal organisation, drug smuggling, active and passive corruption, abuse of official position, illegal possession of weapons and concealment of evidence.

In November 2022, an indictment was brought against the former President of the Commercial Court of Montenegro and 12 other defendants (including bankruptcy trustees and four legal entities) on suspicion of creation of a criminal organisation and abuse of office. The case involving a former Special Prosecutor is related to his suspected links with one of the two main criminal groups of Montenegro and suspected protection of the interests of this group by deciding to close an investigation despite sufficient legal ground to continue it.

In March 2023, the police of Montenegro was targeted by a series of arrests. The Special Police Unit brought charges against 18 people, including six police officers and one former National Security Agency officer, for their suspected involvement in a broad trans-Atlantic cocaine smuggling network. A total of six suspects were arrested, while others are on the run or abroad. One week later, the Acting Deputy Police Director for the fight against organised crime was arrested on suspicion of involvement in the same case. A key protagonist in this case, a former police officer, is still at large.

The number of court judgments and convictions continued to rise in 2022, reflecting the upward trend in the number of investigations since 2020. The High Court in Podgorica handled 79 cases of organised crime and high-level corruption, against 606 defendants (2021: 73 and 492, respectively). A total of nine cases were partially resolved. Decisions against 20 people were taken, of which 18 were convictions based on a plea bargain and two were acquittals. The Special Department of the High Court of Podgorica in charge of organised crime and high-level corruption currently has six judges.

The external assessment of the sentencing policy of Montenegro conducted in 2021 concluded that courts tend to impose sentences in the bottom third or lower half of the sentencing ranges. This conclusion has not led to a review of sentencing policy. Until

October 2022, plea bargains continued to be widely used in organised and serious crime cases, to process cases more quickly by confirming the defendant's guilt and ensuring some asset confiscation, resulting in sentences, fines and asset confiscations that are disproportionately low compared with the gravity of the crime. A working group made up of prosecutors and judges from various jurisdictions was created to prepare guidelines to better regulate the use of plea bargain and set common standards for prosecutors. The use of plea bargains was temporarily suspended in October 2022. The High Court's organisational issues and constraints (including the insufficient space for hearings) were not addressed and continued to lead to frequent adjournments and lengthy trials. Some cases have been pending before the Court since 2017.

In 2022, Montenegro continued to be actively involved **in international police cooperation**. Montenegro exchanged a total of 4 225 communications through Europol's Secure Information Exchange Network Application (SIENA) (2021: 4 292) and 585 communications with foreign liaison officers (2021: 499). A total of 14 fugitives were targeted by active search. The connection of Montenegrin law enforcement agencies – including the department in charge of the fight against organised crime – to SIENA improved the proactivity and, to some extent, the efficiency of investigations. Montenegro also exchanged 36 991 communications through Interpol in 2022 (2021: 59 162).

Based on requests from Montenegro, 43 criminal group members were arrested abroad, including the leader of a Montenegrin organised crime group. The number of organised crime group members arrested in Montenegro based on arrest warrants from foreign Interpol offices and fugitive searches rose to 71 (from 55 in 2021), including three people from the FBI most wanted list, and the leader of a Turkish organised crime group. In March 2023, the police arrested a South Korean national under an international arrest warrant for an illegal financial scheme involving USD 40 billion in cryptocurrencies.

In 2022, Montenegro participated in 63 operational actions across 13 operational action plans (OAPs) of the European Multidisciplinary Platform against Criminal Threats (EMPACT) and was the co-leader of 4 operational activities, such as the operational activities on high-risk criminal networks and on weapons trafficking prevention, detection and counteraction. In 2023, Montenegro is participating in 54 operational actions across 14 OAPs, is the leader of one and the co-leader of two operational actions. An EMPACT working team was created in the police, headed by the national EMPACT coordinator.

In October 2022, Montenegro successfully hosted the biggest-ever EMPACT Joint Action Days organised in a non-EU country, under the coordination of Spain, with the support of Europol, Frontex, Eurojust, INTERPOL and many more. Montenegro provided material and human resources to support the operation.

Cooperation with the EU Agency for Law Enforcement Training (CEPOL) is based on the working arrangement signed in October 2021 which replaced the previous cooperation agreement. Montenegro continued to participate in the Partnership against Crime and Terrorism project in the Western Balkans led by CEPOL. .

As regards **the cooperation between law enforcement agencies at national level**, most institutions are connected at technical level through a common platform, except the cadastre and the penitentiary administration, which have not met the technical requirements yet. In the meantime, the SPO can access cadastral data by using a token. However, another challenge is the incomplete digitalisation of the cadastre, as most cadastral data exist only on paper. Investigators, Special Prosecutors and officers from the Asset Recovery Office have direct access to some but not all databases. Special Prosecutors still need to send prior requests to

some institutions to obtain data, at the expense of the efficiency and confidentiality of the investigation.

In addition, the absence of a digital case management system shared between the police and prosecution services creates long delays in investigations. Confidential material related to ongoing investigations is exchanged between investigators and prosecutors via drivers on paper, USB keys or DVDs and goes through lengthy registration procedures.

In 2022, the SPO initiated 10 **financial investigations** against 96 people (2021: 26 and 156, respectively), all of them launched in parallel with the preliminary criminal investigation. Against the background of the increase in police staff, a specialised unit for the fight against corruption and economic crime and financial investigations was created in September 2022, to initiate more financial investigations in parallel with criminal investigations and to improve their quality. Some 60 posts are allocated to this unit. The new rulebook introduced the possibility to recruit bank, accountancy and tax specialists without police background. As in previous years, temporary seizures of movable and immovable assets worth tens of millions of euro were conducted, based on notifications from the Financial Intelligence Unit or other sources. Substantial amounts were blocked on resident and non-resident accounts. However, there was only one final court decision on asset confiscation in 2022, for an amount of EUR 805.

In 2022, the **Asset Recovery Office** received from foreign partners 44 requests for identification of assets acquired in Montenegro with the proceeds of criminal activity, involving checks on 330 people and 16 legal entities. The number of requests from Montenegro to foreign partners through the Asset Recovery Office surged from 7 to 16 compared with 2021, boosted since September 2022 by the work of the newly created economic crime unit. These requests involved checks on 64 people (members of organised crime groups) and 16 legal entities. However, the incomplete land cadastre limits the scope of financial investigations and asset confiscations.

The confiscation of assets of equivalent value, in cases where the proceeds of the crime itself cannot be found, still needs to be inserted into the legal framework. Montenegro needs to substantially upgrade its capacity to trace, detect and confiscate the proceeds of crime, to durably hit the financial power of criminal networks. The capacity to manage seized assets and avoid the loss of their commercial value should also be strengthened.

In 2022, the initial track record of investigations into **trafficking in human beings** continued to improve. A stronger institutional capacity was reflected in a higher number of cases detected. A total of 13 new investigations were launched, while the four investigations launched in 2021 were still ongoing. A total of five indictments were filed against 12 people. Between January and March 2023, 10 new investigations were launched. However, there was no single court decision in any of the 11 cases pending before the courts in 2022 and in the first trimester of 2023. No verdict related to trafficking in human beings has been issued by courts in the last two and the half years.

The multi-disciplinary victim identification team, which is in charge of identification of, referral of and initial assistance to victims, identified 16 victims, nine of which were minor girls (victims of illicit marriage, i.e. before the legal age of 18, or forced beggary), four of which were women (victims of sexual exploitation or illicit marriage), and two were minor boys (victims of illicit marriage, or forced beggary). People from the Roma community, in particular women and children, remained at high risk of trafficking in human beings. A police action to prevent and combat forced beggary is being implemented continuously. However,

no case of large-scale organised trafficking for sexual exploitation has been unveiled in recent years.

The labour inspection services conducted 182 inspections of work facilities, in cooperation with the police, focusing on foreign workers. A total of 516 cases of illegal employment of foreigners were detected, but no cases of labour exploitation. The capacity of labour inspectors and law enforcement agencies to detect, identify and investigate trafficking for the purpose of labour exploitation needs to be strengthened.

State institutions closely cooperate with and provide financial support to civil society organisations, as key partners for victim protection and awareness raising. In 2022, EUR 40 000 of state funds were allocated to five NGOs under a programme addressing the priorities of the national strategy for combating trafficking in human beings for 2019-2024. However, the shelter for victims of trafficking in human beings, financed by the state and run by an NGO, was closed in December 2022, after two minor victims hosted in the shelter filed a complaint with the local police about violence exerted against them by the manager of the shelter (who also managed the NGO). Montenegro currently has no shelter for victims of trafficking in human beings, and no specialised shelter for children victims either. In 2023, the previous manager of the shelter received another grant from the Ministry of Interior, after having funded a new NGO. Montenegro needs to strengthen control over the allocation of state funds in this area, where the highest professionalism and ethical standards should prevail.

Overall, Montenegro needs to substantially improve the criminal justice response to trafficking in human beings, by shortening legal proceedings and applying deterrent sentences. Montenegro should strengthen its capacity to detect trafficking in human beings for all exploitative purposes and to identify victims at an early stage, especially in high-risk sectors and with targeted action for particularly vulnerable groups. The support and assistance services for victims of trafficking should be improved, in particular for victims belonging to vulnerable communities. A shelter for victims of trafficking in human beings should be opened as a matter of priority. Montenegro still needs to improve support to victims in trafficking-related trials. In the absence of specialised lawyers and proper legal advice, many victims do not request the free legal aid they are entitled to and do not access compensation. The Law on compensation of damages for victims of violent crimes, adopted in 2015, should be applied.

In the area of **firearms**, 246 criminal offences of unlawful possession of weapons and explosive substances were registered in 2022. A total of 729 weapons were seized in 2022 (2021: 556). The 'Traffic' application connects the Firearms Focal Point to the ballistic laboratory and to the police unit in charge of international cooperation. It enables the secured exchange of data on seized firearms at national and international levels. The number of users of the application was extended and police officers were trained to use the iARMS database. The Ministry of Interior also uses an information system for lost, stolen and wanted weapons. However, Montenegro's data collection and reporting system on firearms have yet to be standardised. A group of experts was formed to prepare the accreditation of the ballistic laboratory under the relevant ISO standards. Despite the existence of a storage facility for small arms, light weapons and ammunition in Rogame, seized weapons are stored in the building of the SPO until the end of the legal proceedings, in inappropriate storage and safety conditions. Montenegro needs to increase efforts on awareness raising, outreach and education on the dangers and risks related to the misuse, illicit possession, and trafficking of firearms. Measures aimed at reducing illicit firearms through legalisation, voluntary

surrender, de-activation and destruction should be implemented, in line with the EU action plan on firearms trafficking.

Montenegro substantially increased its capacity to address **cybercrime**. The number of posts in the specialised unit was increased from 5 to 18. This includes posts open to IT specialists without police background. The SPO launched 11 preliminary investigations for cyber-related offences against 13 people. There was no final conviction in the area of cybercrime in 2022. The capacity of all institutions in this area should be strengthened, including on the use of electronic evidence in court handlings, a crucial aspect to address modern forms of communication in organised crime groups. Montenegro should ensure effective, proportionate and dissuasive penalties, including for legal persons, in line with the relevant EU *acquis*. Cybercrime offences and cyber incidents often remain unreported. More awareness-raising activities about risks and threats should be conducted, to encourage the public to report cybercrime offences.

In May 2022, Montenegro signed the Second Additional Protocol to the Convention on Cybercrime on Enhanced Cooperation and Disclosure of Electronic Evidence. Montenegro remains a member of the WePROTECT Global Alliance against **child sexual exploitation and abuse**. Draft amendments to the Criminal Code in relation to cybercrime were drafted. The cybercrime unit acquired a specialised software system to track online child sexual abuse.

In the area of **money laundering**, the institutional capacity and the initial track record continued to improve, but the number of cases remained limited. The number of suspicious transaction reports received by the Financial Intelligence Unit rose to 328 (2021: 299). The Financial Intelligence Unit issued 18 orders to suspend a transaction to commercial banks. The SPO launched Two investigations against four people, bringing the total number of ongoing investigations into money laundering to six. In 2022, two indictments were brought against three people. No financial investigation was launched in relation to money laundering in 2022 and in the first quarter of 2023. The High Court of Podgorica handled nine cases against 91 defendants in 2022, but despite an increased number of cases reaching the court, no final decision on money laundering was pronounced.

The complex Atlas Bank case, involving 248 defendants in various criminal proceedings for the creation of a criminal organisation, money laundering and tax evasion since 2019, is still ongoing. An extradition request was made for one key defendant, who fled from Montenegro to the UK. Out of the eight indictments filed by the SPO in this case, three still await confirmation. No court hearing has started. Since January 2022, the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) carries out the fifth round of evaluation of Montenegro.

In the area of **tobacco smuggling**, the ban on storage of tobacco products in the free zone of the port of Bar, imposed by the customs administration, entered into force in May 2022. It led to the seizure of an unprecedented number of cigarettes, which their owners had left on the spot. Other substantial seizures took place throughout the year. An estimated amount of 1 500 tonnes (or 13 cubic metres) of cigarettes is stored in Bar and awaits destruction. Large quantities of cigarettes had disappeared from warehouses before the entry into force of the ban. A total of seven customs officers working in the free zone were suspended. The transport of two trucks carrying cigarettes to a destruction facility in Nikšić in September 2022 ended with the disappearance of one of the two trucks, even though the transport was organised by the customs administration and escorted by the local police. The missing truck, with a cigarette shipment worth EUR 10 million, was eventually found by the SPO near

Podgorica and more arrests of customs officials took place, including the Director of the Revenues and Customs Administration in December 2022. In 2022, the SPO launched two new investigations into tobacco smuggling against six people. Parallel financial investigations were launched in both cases. The police also worked on numerous cases of smaller size and brought 35 charges relating to tobacco smuggling to Basic Prosecutors' offices. However, there was no final court decision on tobacco smuggling in 2022.

Montenegro needs to make stronger efforts to address the illicit trade of cigarettes. This would involve strengthening the capacity of all institutions involved, further strengthening the work of the whole judicial chain, dismantling criminal networks, and improving the track record in final convictions and confiscations of the proceeds of crime.

On **witness protection**, protection measures applied to six witness protection programmes, in cases under the jurisdiction of the SPO. Protection and support measures were implemented for 11 people on request of the International Criminal Court in The Hague.

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

### Institutional set-up and legal alignment

Montenegro's strategic and regulatory frameworks in this area are not fully aligned with the EU *acquis*. The national drug information system does not fully meet EU standards. The capacity of the Directorate for the prevention of drug abuse in the Ministry of Health, in which the National Drug Observatory is embedded, was strengthened by creating new posts and recruiting new staff members. In December 2022, Montenegro submitted to the European Monitoring Centre for Drugs and Drug Addiction a national drug situation overview and an information map, drafted through an inclusive process involving institutions and NGOs. In April 2023, thanks to the improvement of the cooperation with the Centre, activities involving Montenegro in an Instrument for Pre-accession Assistance project could be resumed, following a suspension of the cooperation in June 2022. The suspension was linked to the insufficient involvement of the National Drug Observatory in project-related activities at that time.

Montenegro has had no drug strategy in place since the previous strategy came to an end in 2020. The national early warning system is still not ready to be linked to the EU early warning system, as it has limited operational capacity. The government adopted a rulebook on the method of destroying drugs and keeping records of seized and destroyed drugs. Montenegro needs to adopt an overarching national drug strategy, to ensure the functioning of the national drug observatory and to improve the national early warning system in order to enable its connection with the EU early warning system.

### Implementation and enforcement capacity

Montenegro continued to be a transit country for drugs, as a part of the Balkan route. A total of 2.3 tonnes of drugs were seized in 2022, in 1 395 seizures. They included marijuana (1.8 tonnes), heroin (3 kg), cocaine (500 kg), hashish, synthetic drugs and other illicit pharmaceutical products, pieces of marijuana stalks, cannabis oil and hallucinogenic mushrooms. The police filed six criminal charges against 65 people (of which 37 were members of organised crime groups).

In 2022, the SPO conducted eight drug-related criminal investigations in cooperation with international partners. The High State Prosecutor's Office handled three drug-related criminal investigations at international and national levels. These investigations led to drug seizures in Montenegro, Serbia and Albania. The police unit in charge of drug-related offences is now

divided into two groups, one for the fight against drug smuggling associated with organised crime and one for the prevention of drug abuse. It has 25 staff members in total.

The insufficient storage capacity for seized drugs has yet to be addressed. Montenegro has yet to adopt amendments to the Criminal Procedure Code to make it possible to keep only a sample of drugs as evidence for court proceedings, and not the entire amount as it is the case now. Meanwhile, tonnes of seized drugs are stored in the country's prosecution offices and courts, in inappropriate health and security conditions, awaiting trials. Montenegro needs to amend the legal framework on drug storage and drug sampling as a matter of priority and align it with EU health, security and environmental standards in the storage, transport and destruction of drugs.

## **Fight against terrorism**

### Institutional set-up and legal alignment

Montenegro's **legal framework** is largely aligned with the EU *acquis*.

In September 2022, the Parliament adopted the Law on the processing of data on passengers in air transport. It aims to prevent and detect criminal acts of terrorism and other serious crimes. A police unit was created to take charge of processing air passengers' data and conducting criminal investigations in this area. Montenegro has yet to create a legal framework regulating online terrorist content. Preventive monitoring of risk groups is being carried out, based on risk assessment.

Montenegro continued to implement the measures set in the EU-Montenegro Implementing Arrangement of the Joint Action Plan on Counter-Terrorism for the Western Balkans, signed in November 2019, and submitted its fifth implementing report in February 2023. In January 2023, a new national coordinator for combating violent extremism, terrorism, money laundering and terrorist financing was appointed. The previous national coordinator had been appointed Director of the Revenues and Customs Administration in 2022 and was subsequently arrested as part of an investigation into tobacco smuggling. The new national coordinator has reactivated the National Operational Team to coordinate the implementation of the two strategies (on counterterrorism and prevention of violent extremism).

### Implementation and enforcement capacity

The threats of terrorism and violent extremism remained relatively low. There are currently no people convicted for a terrorism offence in Montenegrin prisons. However, a cause for concern are growing polarisation along ethnical lines, online and offline disinformation, ethno-nationalism and hate speech, exacerbated by Russia's war of aggression against Ukraine.

A criminal charge was filed by the police against one person related to encouragement of terrorism, after the suspect threatened on his blog to carry out a mass shooting in a school. Since 2020, one investigation against nine suspects has been ongoing. The retrial of the 13 defendants (including two Russian and eight Serbian citizens) found guilty of terrorism in the 2016 coup attempt case, started in June 2023, after the first instance judgment was revoked by the Appeal Court in 2022 and the case was returned to the High Court.

In 2022, practical implementation of the strategy on preventing and countering violent extremism was limited, mostly because of the National Operational Team's inaction. Measures to strengthen the capacity of operators for the prevention of extremism at local level had a limited impact and lacked local ownership. Their local risk assessment tool needs to be developed and implemented. Montenegro continued its good cooperation with Europol

in this area. In 2022, the number of messages exchanged with foreign counterterrorism units through Europol's SIENA communication link rose to 342 (from 203 in 2021).

The problem of foreign terrorist fighters is limited in Montenegro. However, 14 foreign terrorist fighters are reported to be still in conflict zones, while ten had returned to Montenegro before 2016. No one is currently in detention.

Montenegro's threat assessment still needs to be conducted in a more analytical and inclusive way, to create a common understanding of the main threats and risks among stakeholders, with special attention to hybrid and cyber threats. Comprehensive programmes for risk assessment and disengagement, rehabilitation and reintegration should be further developed and implemented within the prison and probation services. Montenegro's authorities need to improve capacity to properly address the terrorist and extremist content online, increasing efforts to refer terrorist content to internet companies and empowering civil society to develop effective counter narratives.

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

Montenegro's **legal framework** is largely aligned with the EU *acquis*. Montenegro initiated legal steps to accede to the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, and to the 2000 Hague Convention on the International Protection of Adults. Montenegro has yet to become a party to the 2007 Hague Protocol on the Law applicable to Maintenance Obligations.

In 2022, 958 cases of mutual legal assistance in criminal matters were processed (2021: 843) and 594 cases in civil matters (2021: 701). The main partners remained the Western Balkan countries and the EU Member States.

A cooperation agreement with Eurojust has been in place since 2016, with a liaison prosecutor on duty since December 2017. There was a surge in Montenegro's cooperation with Eurojust in 2022. In 2022, 55 cases of judicial cooperation were opened with the support of Eurojust (2021: 17), including 42 cases initiated by Montenegro. This reflects an increasing awareness among Montenegrin prosecutors of the benefits of using Eurojust cooperation channels. However, to date Montenegro has not engaged in any joint investigation team with an EU Member State. A working arrangement with the European Public Prosecutor's Office was signed in September 2022.

Montenegro should further increase the speed and efficiency of international judicial cooperation, by increasing its use of judicial cooperation instruments, such as joint investigations teams, and a more frequent use of direct court-to-court cooperation.

### **Legal and irregular migration**

#### Institutional set-up and legal alignment

Montenegro's legal framework on legal and irregular migration is largely aligned with the EU *acquis*. Montenegro joined the European Migration Network as an observer in September 2022, and appointed a national coordinator in October 2022.

Montenegro has 12 **readmission agreements** with non-EU countries. However, it has no readmission agreement with any of the main country of origin of migrants, coming to Montenegro, which would be needed to process non-voluntary returns. In November and December 2022, meetings with representatives of Pakistan, Algeria and Morocco took place to discuss the readmission by Montenegro of irregular migrants to these countries. Cooperation methods still need to be developed to facilitate the official identification of migrants by their embassies (located in Sofia and Belgrade, respectively). Montenegro also

initiated diplomatic steps for negotiating a readmission agreement with the United Arab Emirates.

### Implementation and enforcement capacity

Legal labour migration to Montenegro continued to increase. Seasonal labour migrants, mainly from neighbouring Western Balkan partners, are working primarily in the tourism and construction sectors. In 2022, 29 319 temporary residence and work permits were issued, a 40% surge compared with 2021. The grey economy, however, provided room for irregular labour migration and risks of exploitation.

Montenegro still does not have a modern migrant fingerprinting identification and registration system connected to a central biometric database. Instead, migrants' fingerprints are collected using ink on paper. A master plan laying down the technical requirements for setting up a modern system to register migrants was prepared in close cooperation with Frontex. The purchase of equipment and actual set-up of the system will be supported by a EUR 15 million project funded by the Instrument for Pre-accession Assistance.

According to the Ministry of Interior, 8 519 migrants were registered after illegally crossing the border in 2022, a twofold increase compared with 2021, reflecting regional trends. Afghan nationals made up 60% of the total, followed by Iranian and Bangladeshi nationals. During the summer 2022, the army was once again called upon to support the border police at the border with Albania. In 2022, 4 920 attempts of illegal entry were prevented (2021: 4 018). This concerns situations in which irregular migrants turned back when seeing border patrols or border equipment. The border police detained 511 people (2021: 239) for illegal entry, and prosecuted 202 of them (2021: 146).

The border police detected eight cases of migrant smuggling, leading to the arrest of nine people. In 2022, five indictments were brought in relation to migrant smuggling combined with organised crime, but no conviction was pronounced. A new unit for the fight against human smuggling and cross-border crime was created in the border police. Some 78 migrants were detained in the detention centre for foreigners in Spuž (2021: 83), including 19 migrants from Serbia and 12 from Kosovo\*. This centre currently does not provide access to health services on the spot; detainees are taken to a medical centre in case of need.

The EU-Montenegro readmission agreement and its 15 implementing protocols with EU Member States continued to be implemented satisfactorily.

Reintegration plans for Montenegrin returnees were drawn up upon their return to Montenegro. An inter-ministerial team was created to support reintegration. This team is made up of representatives of the Ministries of Interior Affairs, Finance, Social Welfare, Education, Health, Employment and Labour, and of the International Organization for Migration and the Red Cross. The capacity of local teams to ensure readmission and reintegration was strengthened. A new reception space for Montenegrin returnees under the readmission procedure was created at the Podgorica airport, to conduct interviews with returnees upon their arrival.

Readmission from Montenegro to neighbouring countries fell to 33 people in 2022 (from 60 in 2021); readmissions from Western Balkan partners to Montenegro also dropped to 71 (from 104 in 2021), reflecting a higher mobility on the migratory road. In 2022, 37 voluntary returns were processed (2021: 36). The border police processed 25 returns to neighbouring

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\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.

countries and the International Organization for Migration processed 12 returns to countries of origin.

Montenegro must continue its efforts to cope with migratory pressure, by developing its international cooperation on readmission, increasing its capacity to prosecute migrant smuggling networks, and setting up a modern migrant data collection system including biometric data.

## **Asylum**

### Institutional set-up and legal alignment

Montenegro's legal framework on asylum is largely aligned with the EU *acquis*. During the reporting period, the capacity of the asylum system was strengthened and a substantial State budget allocation was earmarked to expand reception capacity. The fruitful cooperation with the EU Agency for Asylum, within the cooperation roadmap, continued to strengthen the institutional capacity of the Directorate for Asylum and the overall asylum system of Montenegro in line with the Common European Asylum System. With the support of the EU Agency for Asylum, a new unit dealing with country-of-origin information was created, training modules were developed, and standard operating procedures were drafted to harmonise and systematise the procedures. A contingency plan, elaborated with the support of the EUAA is yet to be adopted, to ensure better preparedness for sudden influx and emergency situations.

### Implementation and enforcement capacity

The asylum application in Montenegro is a two-step procedure, under which applicants first register an intention to request asylum with the border police and then have 15 days to lodge an asylum request with the Directorate for Asylum.

In 2022, the number of people registering an intention to request asylum increased by 150% compared with 2021 and reached 8 320 people, reflecting the upward trend in irregular entries. Afghan nationals represented 62% of them. Registration of intention to seek asylum is now possible in several municipalities, and not only in the Božaj migrant centre, close to the Albanian border. However, it is still not possible in all municipalities, border crossing points and airports. Migrants arriving to locations where it is not possible to register an intention to request asylum need to travel to Božaj to register their intention. The opening hours of the border police in Božaj were extended, to enable registration of intention to seek asylum throughout the day.

However, only 175 people, or 2.1% of those who registered an intention to request asylum, eventually lodged an asylum application, while the others absconded and continued their migratory movements. In 2022, for the first time ever, Russian nationals represented the largest group of asylum seekers in Montenegro, with 72 applicants. The profile of asylum seekers also changed compared with 2021: 18% of them were accompanied children and 29% were women. Legal counselling provided by NGOs is available to asylum seekers. The Directorate for Asylum processed 80 asylum requests in 2022. In 2022, nine asylum seekers received an international protection status (2021: 14). The main countries of origin were the Russian Federation, Cuba, China, Ukraine and Afghanistan.

Montenegro's Directorate for Asylum made efforts to reduce the backlog of asylum applications. While most applications were processed at the first instance level within the 6-month regular deadline, nine cases were processed within the 21-month exceptional deadline. Fewer decisions were overturned at second instance, reflecting a better quality of the determination process. The Directorate for Asylum has only two case officers and two

country-of-origin information officers. Yet it handles asylum applications coming from 24 different countries and five continents, including an increasing number of complex cases, where the applicant is the subject of an extradition request from their country.

The assistance package for people under international protection includes financial assistance, access to healthcare, education, employment, free legal aid, language courses and psychosocial assistance. Accommodation is provided for two years (with the support of the UN Refugee Agency). Asylum seekers and people under international and temporary protection have the right to open a bank account. However, most Montenegrin banks refuse this, which creates serious difficulties in accessing employment and even in receiving financial assistance from the state.

The number of migrants accommodated in the country's reception centres surged to 6 022 in 2022 (from 2 688 in 2021), mainly for short stays of one week. Some 7% of the migrants accommodated were women and 6% were children. Montenegro has two reception centres, with a total capacity of 164 beds, of which 60 beds are in a temporary container settlement in Božaj. Their average occupancy rate throughout the year is 30%, but it reaches peaks in spring and summer. A centre for unaccompanied children has 25 additional beds, but it is not devoted exclusively to migrant children. Montenegro is the only country in the Western Balkans that pays the running costs of the reception centres out of its state budget. Provision of health services and psychological assistance in the centres is ensured, but partly provided by NGOs and financed by international donors. New posts of managers of migrant centres were created and filled during the reporting period.

The EU allocated EUR 400 000 of financial assistance to Montenegro to build a fully-fledged migrant centre in Božaj, but Montenegro failed to prepare the tendering documentation on time, before the deadline for contracting in 2022, and the construction did not take place. In the meantime, EUR 645 000 was allocated from Montenegro's state budget to increase and refurbish the existing reception centres.

Montenegro is the Western Balkan partner hosting the highest number of Ukrainian nationals having fled Russia's war of aggression, both in absolute figures and proportionally to its population (1%). By the end of March 2023, 7 857 Ukrainian nationals had been granted temporary protection (70% of whom were women). On 15 February 2023, the Decision on granting temporary protection to people fleeing Ukraine of March 2022 was amended to prolong the temporary protection for people having fled the war until March 2024, in compliance with the Council Implementing Decision. The categories eligible for temporary protection in Montenegro include citizens of Ukraine, stateless persons with last residence in Ukraine, and people granted international protection in Ukraine. The amendments also simplified the application procedure. However, the temporary protection was not prolonged automatically and a request for prolongation had to be submitted before the expiry date. A total of 4 264 people prolonged their status, and 1 052 new applications were submitted after the deadline, bringing the number of people benefiting from temporary protection to 5 316 in June 2023 (including 3 226 women). In addition, 2 350 Ukrainians stay legally in Montenegro under the Law on foreigners.

An inter-ministerial coordinating body was set up between the Ministries of Interior, Labour, Health, Education, Finance and Foreign Affairs, the Consulate of Ukraine, the International Organization for Migration, the UN Refugee Agency and the Red Cross to coordinate support and integration measures for Ukrainian displaced persons.

Montenegro granted displaced persons fleeing Russia's war of aggression against Ukraine access to health services and accommodation to an extent that went beyond the minimum EU

standards. Some 104 Ukrainian displaced persons received free-of-charge accommodation in hotels, including meals and other services; 27 were hosted in a migrant centre. Around 2 500 medical services were delivered. However, in doing so, Montenegro relied largely on ad hoc and emergency solutions, which were not embedded in the state social system and at times faced practical implementation problems. Several sectoral laws still need to be aligned with the Asylum Law to ensure that people under temporary and international protection can exercise their social rights. Access to education is granted by law, but the number of Ukrainian children enrolled in Montenegrin schools remains low (151 children out of 1 114 children of school age). Administrative barriers hinder access to health and employment due to the absence of a personal identification number compatible with the social, health insurance and employment IT systems of the state.

### **Visa policy**

In order to align national legislation with the EU *acquis*, Montenegro introduced visa requirements for residents of the United Arab Emirates as well as for Cuban and Ecuadorian nationals (in January, April and May 2023, respectively) who previously benefited from visa-free entry to Montenegro. However, there are 12 countries which are visa free for Montenegro, but not for the EU, of which seven enjoy permanent visa exemption (Azerbaijan, Belarus, China, Kuwait, Qatar, Russia, Türkiye) and five have a seasonal visa waiver to enter Montenegro for touristic reasons between April and October (Armenia, Egypt, Kazakhstan, Saudi Arabia, Uzbekistan). The decision on seasonal visa waivers, adopted by the government in April 2023, includes preventive measures against the risk of abuse of the visa-free regime, such as the need to be part of an organised tourist group, to fly in and out the territory of Montenegro by direct charter flights, and to have a paid tourist arrangement or an invitation letter from a Montenegrin tourist agency. Belarusian and Russian nationals are visa-exempted up to 30 days on a permanent basis, as well as Chinese nationals if they are in organised tourist groups.

The investor citizenship scheme was terminated at the end of 2022. Between January 2019 and December 2022, 556 applications were lodged (556 applicants and 1 281 family members). By 15 June 2023, the government had issued 954 positive decisions (293 applicants and 661 family members). On 15 June 2023, 398 applications were still pending. The remaining pending applications need to be checked properly to ensure that they fully comply with all EU restrictive measures. The screening of the source of related funds was carried out by external service providers.

The Sixth report under the Visa Suspension Mechanism<sup>4</sup>, adopted in October 2023, concluded that Montenegro continued to take action to address the recommendations from the previous year's report. However, further progress is needed on the alignment of Montenegro's visa policy with the EU's list of visa-required countries, in particular as regards countries presenting irregular migration or security risks to the EU. The report also recommends Montenegro to ensure that pending applications under the recently terminated investor citizenship scheme are screened and processed in accordance with the highest possible security standards. In this regard, in May 2023 the government adopted a decision on forming a Coordinating Body to monitor and implement the pending applications within this scheme.

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<sup>4</sup> COM(2023) 730

## **Schengen and external borders**

### Institutional set-up and legal alignment

Montenegro's legal framework is largely aligned with the EU *acquis* in this area. Montenegro and the EU signed a new status agreement on 16 May 2023. The new agreement enables European Border and Coast Guard Agency (Frontex) deployments anywhere on the territory of Montenegro, at the request of Montenegro's authorities. The two joint operations being conducted on the basis of the current status agreement continue to be implemented: the deployment of Standing Corps officers with executive powers at Debeli Brijeg, a border crossing point with Croatia; and a joint maritime operation to strengthen blue borders' surveillance in the Adriatic. In addition, on the basis of a working arrangement between the Montenegrin border police and Frontex, Standing Corps officers are deployed with an advisory role (without executive powers) under Joint Operation Coordination Points. Montenegro also regularly participates in EMPACT operational activities, including Joint Action Days.

The good cooperation with Frontex further strengthened the capacity of Montenegro's Coordination Centre. Electronic sea surveillance enables real-time online image transmission to Montenegro's Coordinating Centre and Frontex Coordinating Centre in Warsaw, a key mechanism for border control in the Adriatic Sea and quick interception of suspicious vessels. The internal organisation of Montenegro's Coordination Centre was further developed and a number of vehicles and patrol boats were acquired, increasing the Centre's operational capacity. However, full coverage of critical areas is not ensured yet. A total of 11 border crossing points are now connected to this Centre, while two have yet to be connected.

A total of 168 new posts were created in the border police, bringing the total number of posts to 1 540 (a 14% rise) in order to start addressing the requirements of the Schengen action plan. However, 450 more posts need to be created. The new posts strengthen in particular local border police stations. Further to the adoption, in September 2022, of the Law on the processing of data on passengers in air transport, a new unit was created in the police to deal with passenger information issues. An operational advanced passenger information system has yet to be set up.

### Implementation and enforcement capacity

In 2022, Montenegro conducted 500 joint border patrols with neighbouring countries (2021: 437; 2020: 723), including 218 joint patrols on the border with Albania (2021: 341). The activity of the joint police cooperation centres increased, with a higher volume of information exchanged. A total of 87 forged documents were seized.

Montenegro continued to implement its strategy on integrated border management and its Schengen action plan. Border management equipment continued to be progressively upgraded in accordance with the Schengen action plan, but reliance on EU and other donors' support remained high. The border police still lacks a proper IT tool to monitor the purchase of equipment, to set priorities and draw up a purchase plan, linked with the Schengen action plan. Its insufficient autonomy in criminal investigations continues to hamper the development of its analytical capacity and intelligence on smuggling networks. A new EUR 15 million sector budget support programme on integrated border management funded by the Instrument for Pre-accession Assistance is expected to start in 2023.

Montenegro continued to cooperate actively with Interpol, Europol and EU Member States, notably: (i) under the regional Anti-Smuggling Operational Partnership between the EU and the Western Balkans launched in November 2022; (ii) with Europol's European Migrant

Smuggling Centre; (iii) on EMPACT and its operational action plan on migrant smuggling; and (iv) in the Frontex Western Balkans Risk Analysis Network. In 2023, Montenegro expressed its willingness to participate in 18 (out of a total of 28) operational actions of the 2023 EMPACT operational action plan on migrant smuggling.

Montenegro continued to develop its cooperation with neighbouring Western Balkan partners under bilateral border traffic agreements. In October 2022, the Parliament adopted amendments to the bilateral agreement with Bosnia and Herzegovina on border crossing points for border traffic, to simplify cross-border procedures for inhabitants of cross-border areas. Montenegro still needs to demolish 15 alternative roads to Serbia and 13 roads to Bosnia and Herzegovina.

## 2.3. ECONOMIC CRITERIA

<i>Table 2.1:</i>	2014-19	2020	2021	2022
<b>Montenegro - Key economic figures</b>	average			
<b>GDP per capita</b> (% of EU-27 in PPS) <sup>1)</sup>	46	45	48	50
<b>Real GDP growth</b>	3.7	-15.3	13.0	6.1
<b>Economic activity rate of the population aged 15-64 (%)</b> , total	63.7	61.5	59.2	67.7
<i>female</i>	57.0	54.7	52.9	61.4
<i>male</i>	70.4	68.3	65.5	73.9
<b>Unemployment rate of the population aged 15-64 (%)</b> , total	16.9	18.3	16.8	15.0
<i>female</i>	17.0	18.8	16.1	13.1
<i>male</i>	16.8	17.8	17.3	16.6
<b>Employment of the population aged 15-64</b> (annual growth %)	2.9	-10.1	-2.4	17.2
<b>Nominal wages</b> (annual growth %)	1.1	1.3	1.4	11.2
<b>Consumer price index</b> (annual growth %)	1.2	-0.8	2.5	11.9
<b>Exchange rate against EUR</b>	1.0	1.0	1.0	1.0
<b>Current account balance</b> (% of GDP)	-14.5	-26.1	-9.2	-13.2
<b>Net foreign direct investment, FDI</b> (% of GDP)	10.2	11.2	11.7	13.5
<b>General government balance</b> (% of GDP)	-4.3	-11.1	-1.9	-5.2
<b>General government debt</b> (% of GDP)	66.2	105.3	82.5	69.5

*Notes:*

1) Eurostat

Source: national sources

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

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

Montenegro has made **limited progress** and is **moderately prepared** in developing a functioning market economy. Economic expansion continued at a strong pace in 2022, supported by private consumption and strong growth in tourism, partially due to a large influx of Russian and Ukrainian nationals following Russia's war of aggression against Ukraine. The main headwind came from inflationary pressures on the back of higher global commodity prices. The current account deficit increased as both exports and imports expanded rapidly. An expansionary fiscal policy fueled domestic demand and contributed to very high net wage growth. The budget deficit increased significantly and a comprehensive medium-term consolidation plan to address mounting fiscal challenges has not been

developed. The labour market situation improved, but structural problems persist, including large regional disparities and gender gaps, and high youth and long-term unemployment. The banking sector remained well capitalised and liquid. Efforts to improve the business environment and the governance of state-owned enterprises (SOEs) slowed down due to political uncertainty, even though the number of new businesses increased.

Last year's recommendations were addressed to a limited extent and remain mostly valid. In the coming year, in order to improve the functioning of the market economy, Montenegro should in particular:

- design and implement a medium-term fiscal consolidation plan targeting the achievement of a non-negative primary balance from 2025, and a reduction of the public debt ratio in the medium term;
- implement the Law on budget and fiscal responsibility to set up a fiscal council, while ensuring full transparency in selecting the council members;
- prepare an analysis of the economic and fiscal impact of current tax exemptions and provide specific budgetary recommendations to reduce tax expenditure such as exemptions, deductions, credits and deferrals;
- prepare a roadmap for reforming SOEs, prepare a framework for the monitoring and management of SOEs, and develop objective criteria for the selection of management bodies of SOEs;
- develop and implement specific measures to reduce the informal economy.

#### Economic governance

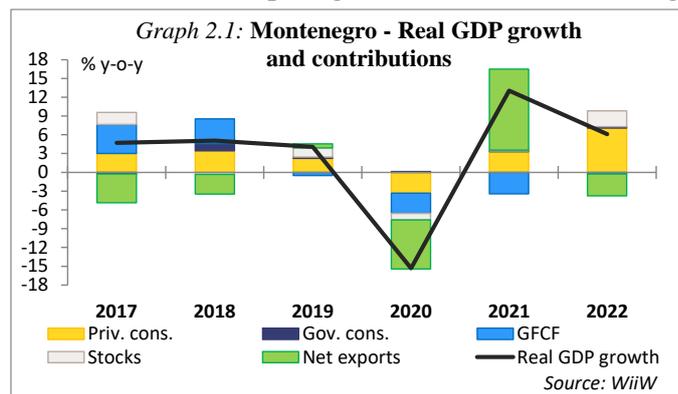
**An unstable political situation led to lax fiscal policy and a slowdown in structural reforms.** In August 2022, the incumbent government lost a vote of no confidence. The ensuing caretaker government was not in a position to advance priority reforms to address economic challenges. The reforms of SOEs were downscaled. The caretaker government did not adopt a medium-term fiscal consolidation strategy to address vulnerabilities in the light of forthcoming large debt repayments. By reducing taxes on basic consumption goods and fuels, the government tried to contain inflationary pressures and protect the most vulnerable. The caretaker government adopted several revenue strengthening measures in early 2023 and revised the 2023 budget in May. The controversial economic citizenship programme, which supported public revenue but clashed with the country's EU commitments, expired at the end of 2022. However, numerous pending applications were still processed well into 2023.

**The policy guidance set out in the conclusions of the Economic and Financial Dialogue of May 2022 was implemented to a limited extent.** Progress was made in setting up an independent body for fiscal oversight and strengthening financial stability, but only limited improvement was achieved on structural reforms aiming to address informality and improve the business environment and the labour market situation.

#### Macroeconomic stability

**Economic expansion continued at a strong pace in 2022 despite slowing investment.** Overall, real GDP grew by an estimated 6.1% in 2022 and the first quarter of 2023, following a 13% rebound in 2021 from the deep COVID-19-induced recession. The strong economic growth in 2022 was mainly driven by a surge in private consumption, on the back of increases in disposable income, employment, household lending, and remittances. Private consumption was also supported by Ukrainian and Russian nationals taking up temporary

residence. While export growth benefited from ongoing recovery in tourism as well as good

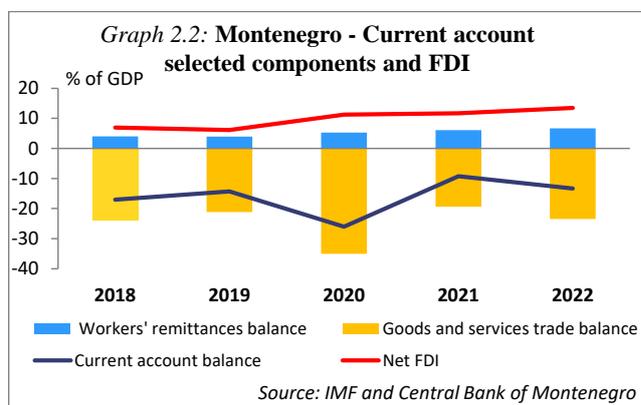


performance of merchandise exports, a strong surge in imports led to a negative contribution of net exports to growth. Capital investment remained weak and contracted due to a slowdown in private investment. Overall, the rebound of the economy brought Montenegro's per-capita income in purchasing power standards to 50% of the EU-27 average in 2022 (the highest in the Western Balkans),

up from 45% in 2020, bringing it back to the level registered in 2019.

**Despite the strong export performance, the current account deficit widened in 2022.**

Following a record low in 2021, the current account deficit widened again to 13.3% of GDP in 2022, as high growth of exports of goods and services was outweighed by rapidly rising imports due to price effects. Supported by good performance of aluminium and electricity, merchandise exports increased by 60% compared with 2021, while a successful tourism season led to a strong increase in exports of services (43%). However, goods imports, which are much larger than exports, also surged (by 41.3%), and the overall trade deficit rose to 23.4% of GDP, compared with 19.4% in 2021. This was partially offset by surpluses in the primary and secondary income accounts, which increased due to higher compensations of employees working abroad and higher remittances. The current account deficit was fully



financed by net foreign direct investment (FDI) inflows, which increased by 34.6% year on year and amounted to 13.5% of GDP, with a large share going into real estate. In early 2023, international reserves stood at EUR 1.9 billion, covering 4 months of imports of goods and services. The current account deficit deepened in the first quarter of 2023 to 14% of GDP in annualised terms, compared to 9.3% of GDP gap registered a year before. Net FDI declined slightly

to 12.2% of GDP compared to 12.9% over the same period.

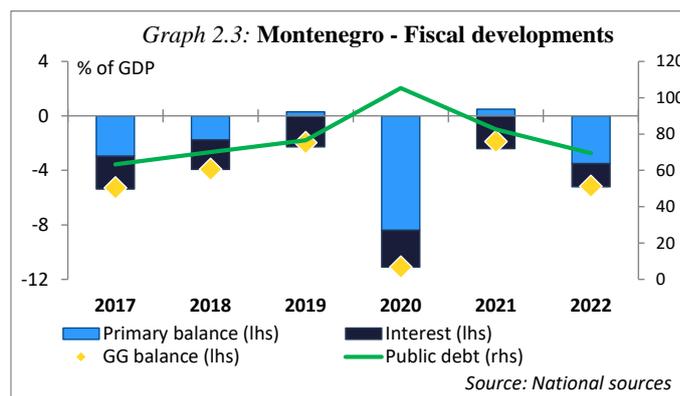
**Impacted by price rises following Russia's war of aggression against Ukraine, inflation peaked at a record high level in 2022.**

Driven by global inflationary pressures, especially on food and fuel, as well as large domestic policy-induced wage increases, average inflation jumped to 13% in 2022. Annual inflation peaked at 17.5% in November 2022 and eased to 6.9% in July 2023. The government adopted numerous and not always well-targeted support measures for households and firms to counterbalance the impact of higher inflation, including reduced value added tax rates for basic foodstuffs and a lower excise duty on sales of unleaded gasoline and gas oils. Based on regular and extraordinary adjustment to inflation, the government decided to raise pensions by 8.5% from June onwards.

**The budget deficit increased substantially in 2022.** The general government deficit increased significantly, to 5.2% of GDP, from 1.9% in 2021. Total revenues dropped markedly, by 4.5% of GDP, mainly due to the government's tax reform, which abolished

mandatory health contributions and introduced a non-taxable part of wage income. Revenues were also weakened by the temporary reduction of excise taxes on fuel and the reduction of VAT rates on basic foodstuffs and pellets. Public expenditure increased due to ad hoc spending decisions, such as the granting of additional allowances for all children and for mothers of three and more children; large increases in minimum pensions; wage increases in the public sector; and additional financing for the health insurance fund. Nevertheless, the 2022 budget outcome was better than envisaged in the October amendment to the Budget Law, which targeted a deficit of 8.3% of GDP. This was due to a combination of higher-than-projected revenue, mainly from VAT; and lower-than-expected spending, mainly on investment and on wages as there were delays in planned employment. Nominal GDP was also higher than previously projected. At the end of December 2022, the Parliament of Montenegro adopted the 2023 Budget Law with a projected deficit of 5.9% of GDP. In May 2023, however, the 2023 deficit target was revised to 3% (which would be in line with the rule on fiscal responsibility) as a result of higher assumed revenues (due to the EU energy support package, higher-than-expected inflation, and improved tax discipline) and some additional spending items related to early parliamentary elections and employment subsidies for people with a disability.

**The debt ratio recorded a substantial decline, but vulnerabilities remain high in view of large upcoming repayment needs amid tightening financing conditions.** The public debt stock declined substantially, to 69.5% of GDP at the end of 2022 after peaking at 105% of



GDP at the end of 2020. This large fall was driven by strong GDP growth in 2021-2022 and the use of government deposits to repay maturing debt. As a result, the stock of government deposits declined to 1.9% of GDP at the end of 2022, down from 9.4% in 2021. Large repayments of public debt, amounting to 11% of GDP, are due in 2025 and will require substantial new borrowing. With global financing conditions worsening,

debt-related vulnerabilities remain high.

**While Montenegro’s macroeconomic policy mix is constrained by the lack of an autonomous monetary policy, an expansionary fiscal policy contributed to widening budget and current account deficits and surging inflation.** As the unilateral use of the euro means that the Central Bank of Montenegro cannot influence interest rates and money supply, prudent fiscal policy remains a key tool to manage the economic cycle. While global commodity prices had a substantial impact, higher wages and pensions added to rapidly rising inflation. Even though inflation is gradually abating, debt-related vulnerabilities, including large debt repayments in 2024-2027, require careful fiscal management in the years to come. Vulnerabilities in the health sector require a close monitoring.

### Functioning of product markets

#### *Business environment*

**A growing number of registered businesses was supported by the improving economic outlook and the influx of foreign citizens.** Although electronic registration is still only available for single-member limited liability companies, but not for larger firms, the number of businesses had increased by 11.8% to 73 358 by the end of 2022. The number of newly

registered businesses reached 10 096 in 2022, compared with 5 559 in 2021. Around 80% of new companies were set up by foreign citizens. Following the adoption of a scheme to attract digital nomads in July 2022, the Parliament amended the Law on foreigners, which regulates the stay of digital nomads, as part of the broader efforts to attract foreign teleworkers to Montenegro.

**Efforts to improve the regulatory business environment decelerated.** The dynamic development of local companies and foreign investors' activities is hindered by weaknesses in the regulatory environment, such as inefficiencies and delays in dealings with the administration, excessive complexity of the legal framework, and the administrative burden of local taxation and parafiscal charges. Further obstacles are related to insufficient transparency in decision-making, arbitrary interpretation and law enforcement by public authorities, and access to finance for SMEs. Systematic involvement of business partners in designing and drafting measures that affect businesses remains the focus of the Competitiveness Council, but in 2022, the level of activity declined due to the political stalemate and uncertainty. The standstill in the decision-making of public administration also played a part in the slowdown in digital transformation reforms, which already suffered from a series of large-scale cyberattacks on the state's IT infrastructure in the second half of 2022. Due to the cyberattacks, the single online portal for SME support, which provides all necessary information and contacts regarding advice and assistance for businesses, has been disabled since August 2022, and its update is ongoing. At the end of 2022, 382 services were available on the eGovernment Portal, of which 73 were electronic, 254 for businesses, 109 for citizens, and the rest for the public administration.

**The government is yet to develop specific reform measures to reduce the informal economy, which is a major obstacle to Montenegro's competitiveness.** Deficiencies in the institutional and regulatory environment, weaknesses in the labour market, insufficient enforcement capacity of public authorities, corruption and tax non-compliance are conducive to informality, which is especially harmful to legally operating SMEs and microenterprises in the service sector. In July 2022, the Ministry of Finance published the results of a survey on informality, estimating the size of the informal economy at 20.6% of GDP, considering businesses and employees working in the formal sector. However, this estimate increases to 37.5% of GDP when including the fully informal sector. The government has yet to act on the survey's recommendations. The adoption of a comprehensive action plan on informality was postponed again, to the end of 2023.

#### *State influence on product markets*

**While the most recent tax measures aimed to contain price increases, a broader issue relates to ensuring transparency and efficiency of State aid in Montenegro.** The government reduced excise duties on the sale of unleaded fuel and gas oils by 50% in June 2022. When global oil prices stabilised, this reduction was revised, and finally abolished. The decision to reduce the VAT rate on the sale and import of basic foodstuffs (flour, sunflower oil, and salt) expired at the end of 2022, while the decision to reduce the VAT rate on bread (to 0%) and heating pellets (from 21% to 7%) is valid until the end of 2023. In March 2023, the government launched a 'Stop Inflation' programme in cooperation with the country's largest supermarket chains, in an effort to address the problem of surging staple food prices and to lower inflation expectations. The Agency for Protection of Competition (APC) carried out fewer State aid investigations in 2022 than in 2021. In August 2022, the APC issued a third decision ordering further recovery of illegal State aid to the major State aid beneficiary, Montenegro Airlines. The responsible Ministry of Capital Investments is still to adopt a plan and take action to recover the funds. In January 2023, EPCG, a state-owned national electric

power company, notified the APC of the purchase of the troubled steel producer Niksic, only after the contract was signed in late 2022. The APC has not yet published any opinion or decision concerning this case.

### *Privatisation and restructuring*

**Advancing reforms and privatisation of SOEs and improving their governance and profitability remain a challenge.** The caretaker government stepped back from previous plans to formulate the state's ownership strategy and set out a portfolio of key companies that should remain in state possession, and improve SOEs' management practices and financial performance. As there was no political agreement on the direction and scope of such reforms, the government also stepped back from its plans for a holding company to manage and reform SOEs and limited the scope of its 2022 measures to set up a small unit in the Ministry of Finance to monitor fiscal risks related to SOEs. The performance of Montenegro's SOEs, including those at the local level, could be enhanced by transforming SOEs' management structures, eliminating political patronage and improve financial performance to reduce fiscal risks. Privatisation did not make much progress, as the government decided to increase the state capital in some SOEs, with the revised 2022 budget earmarking EUR 25 million for this purpose for the health institute of Simo Milosevic in Herceg Novi, the Meljine hospital, and wine producer Plantaze. The government also increased its ownership in the port of Bar to ensure a two-third majority in the managing board. In December 2022, the government decided to reintegrate the bankrupt (privatised) Meljine hospital into the public health system until the ongoing court proceedings are finalised. The government is yet to decide on the restructuring of wine producer Plantaze's tax debt. In February 2023, the government assigned the operation of the only ferry line crossing the Boka bay to the public company for coastal zone management (Morsko dobro), in an apparent violation of public procurement rules and transparency. At the same time, the government annulled its 2019 decision assigning the management of the ferry line in the Boka bay to a local private company (Maritime transport).

### Functioning of the financial market

#### *Financial stability*

**The banking system remains stable and liquid, but the quality of banks' balance sheets needs close monitoring in a rising interest rate environment.** Despite the expiry of pandemic-related support measures, the banking system maintained strong capital and liquidity buffers, both of which exceeded pre-COVID-19 levels. However, risks remain to be closely monitored, in particular in view of recent strong credit growth and rising global interest rates. The capital adequacy ratio stood at 19.3% in late 2022, well above the statutory minimum of 10%. Banks continued to fund themselves mainly through domestic deposits. Non-performing loans made up 5.7% of total loans at the end of 2022, down from 6.2% in 2021. The banking system recorded a significant profit of EUR 83.3 million at the end of 2022, compared with EUR 27.5 million 1 year earlier.

#### *Access to finance*

**Credit activity continued to grow, supporting the corporate sector in particular.** Annual loan growth decelerated slightly to 6.1% in 2022, from 6.6% in 2021, before recovering to over 10% in January-February 2023. The main driver was lending to businesses and households (rising by 9% and 6.7% year on year, respectively) throughout the whole period, while there was a rapid increase in inter-bank lending in early 2023. Loans to the public sector have been declining since the beginning of 2022. The recovery of the economy was reflected in a very fast increase in banks' deposits, whose growth rate accelerated from 12.8%

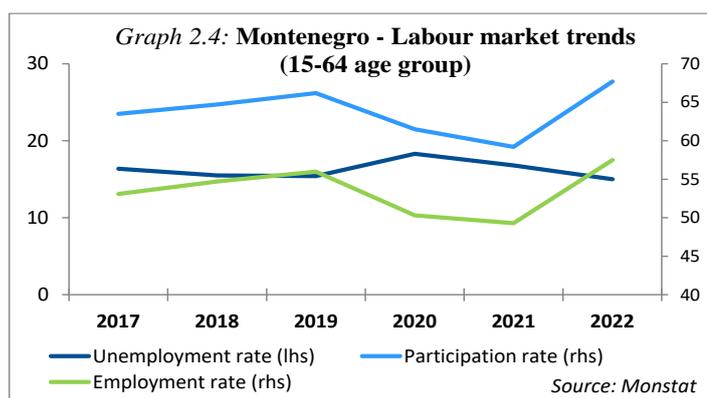
year on year in 2021 to 23.3% in 2022 and continued to expand at over 20% year on year in the first 2 months of 2023. Non-resident deposits accounted for around one fourth of all deposits during this period. Borrowing costs increased with the nominal weighted averaged lending rate reaching 5.3% in early 2023, compared with 4.3% at the end of 2021.

**The size of the non-bank financial sector remains very limited.** Microfinance is the most commonly used source of alternative finance, with the sector’s assets accounting for some 1.3% of GDP in 2022. The role of insurance in the local economy is also limited as their assets declined slightly to 1.8% of GDP in 2022.

#### Functioning of the labour market

**With the economic recovery, labour market indicators also continued to improve and surpassed pre-crisis levels, but structural challenges remain.**

According to the labour force survey (LFS), the average unemployment rate declined to 15% in 2022, down from 16.8% in 2021. The number of employed rose by 18.2% and the average employment rate stood at 57.5%. Despite these improvements, the 2022 LFS results once again confirmed large regional disparities, with the unemployment rate standing



at 5.6% in the tourism-heavy coastal region, at 9.3% in the central region, and at 31.6% in the poorer northern region. The gender gap widened after the pandemic, but the unemployment rate of women (aged 15-64) declined faster (by 2.3 percentage points) than that of men in 2022, while women’s activity rate (61.4%) remained significantly below that of men (73.9%). Remaining major structural challenges are youth unemployment, standing at 29.4% for the population aged 15-24, and long-term unemployment, as 75.6% of all unemployed have been looking for a job for more than 12 months. Despite ongoing reform efforts, the public employment service’s capacity for job mediation remains weak and lacks a continuous monitoring of active labour market policies, which in turn prevents the design of quality, targeted and effective employment activation measures. The Employment Agency of Montenegro’s reform and readiness remain key challenges and are important for not only implementing the Youth Guarantee, but also for ensuring a healthy, well-functioning labour market in the long term. The average gross wage increased by 11% in nominal terms to EUR 883, while the average net wage rose by nearly 34% to EUR 793 in 2022, supported by a large decline in the labour tax wedge.

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

Montenegro has made **limited progress** and is **moderately prepared** to cope with competitive pressure and market forces in the EU. The education system still faces numerous challenges, as shown by the results of international tests. Although public financing of research and development remains modest, some progress was made in attracting private investors. Efforts to advance a green and digital transition have continued, but large infrastructure gaps persist. The administrative and financial capacity to identify, prioritise and implement major public investments remains limited, hampering the use of EU support. Despite some progress in the metallurgy sector and the good performance of tourism, further efforts are needed to diversify Montenegro’s narrow production base. The low value added of

domestic products, the small size of local companies, and their low level of participation in exports represent obstacles to increasing the productivity and competitiveness of local firms.

The 2022 recommendations were implemented to a limited extent and remain mostly valid. In the coming year, Montenegro should in particular:

- continue implementing digital services for micro, small and medium-sized enterprises and prioritise the development and implementation of an interactive e-government platform for transactional electronic services;
- improve programmes for dual vocational education and training and tertiary education in close cooperation with business associations;
- improve the institutional and regulatory environment for the green transition and increase energy resilience by adopting the national energy and climate plan and completing the implementation of the national energy action plan;
- implement the public investment management assessment recommendations, prioritising key public infrastructure works within the available fiscal space while avoiding exceptions regarding project selection.

### Education and innovation

**The quality of education needs further improvements.** A comprehensive 2015-2020 education sector analysis (ESA) was presented in November 2022, focusing on early childhood, primary and secondary education. It underlined a low level of education quality (based on the results of the Programme for International Student Assessment and the Trends in International Mathematics and Science Study) both in the fourth grade of primary school and in the first year of upper-secondary education. An additional concern relates to the distribution of scores, as in both tests, more than 40% of students are below the level of the international benchmark for 'low performance', i.e. not reaching the minimum levels of competency, while only a negligible share of students had high achievements (less than 2%, compared with around 10% on average in OECD countries and 20% or more in the best-performing countries). The ESA underlines the need to provide more appropriate school infrastructure (70% of children attend primary schools with insufficient infrastructure) and improve the curriculum, the qualifications of teachers, the quality of teaching, enrolment rates, and the provision of support to the most vulnerable groups. A mismatch of skills remains a significant challenge, particularly for graduates of vocational education and training or higher education, despite some recent efforts to improve the transition from education and training to the labour market. Although tertiary educational attainment is still lower than the EU average, the labour market cannot absorb the numbers of tertiary graduates in certain areas, such as business and humanities. The OECD's report on labour migration in the Western Balkans found that in Montenegro, 28% of respondents disagree with the claim that skills learned in the education system meet the needs of their job, and 51% of surveyed firms identify applicants' lack of skills as a reason for unfilled vacancies.

**Public and private investment in research, development and innovation is low.** In the European Innovation Scoreboard for 2023, Montenegro has a summary innovation index of 47% relative to the EU's 100%, which is below the average of the 'emerging innovators' (50.0%). While the country's index has been improving, the performance gap with the EU has widened. The links between academia, research institutes and business are still weak. Only 2.2% of Montenegrin micro, small and medium-sized enterprises invest in research and development, compared with 22% at regional level. Research staff are employed almost exclusively by the government or in the higher education sector. With a rate of 0.36% of

GDP invested in research and development, Montenegro's spending was just over one sixth of the EU-28 average (2.18% of GDP) in 2019. In parallel with strengthening its capacity, the Innovation Fund continued to administer a collaborative grants programme and an innovation voucher scheme to encourage cooperation between private-sector and research institutions in developing innovative projects and products. As a result, private sector investment in innovation projects exceeded EUR 1 million in 2022. Innovation and Entrepreneurship Center Tehnopolis Nikšič continued to help start-ups through seven support programmes, and in parallel worked on strengthening cooperation with local universities. A 5-year strategic plan for the newly set up Science and Technology Park Montenegro was developed and a public call for tenants is under preparation.

#### Physical capital and quality of infrastructure

**Productivity-enhancing investment remains low.** In 2022, the share of gross fixed capital formation in GDP declined slightly to 21.7%. There was a slowdown in private investment, while public investment increased slightly to 5% of GDP. Net FDI rose to 13.5% of GDP, up from 11.7% in 2021, with more than one third of these inflows going into real estate, driven partly by purchases by Russian citizens.

**Little progress was achieved in improving energy infrastructure.** While the use of renewable energy sources is high, there is a lack of diversification of renewable sources and insufficient focus on environmental standards in energy infrastructure projects (some 43% of the electricity production in 2020 came from renewable sources, mostly hydropower and biomass). Montenegro needs to address a number of energy-related challenges, including energy efficiency. Montenegro needs to take a strategic decision on how to replace the thermal (lignite) power plant in Plevlja, which currently produces approximately 50% of Montenegro's electricity and is vital for security of supply and the stability of the country's power system but remains the main polluter. Finding an alternative solution for energy production did not progress, as any decisions in this regard are not expected until the government has adopted the national energy and climate plan in 2024. With regard to offshore exploration and production of hydrocarbons, two concession contracts signed in 2016 with Eni and Novatek were terminated in December 2022, following negative results of explorations, while the 2017 contract with Energean expired in July 2022.

**Investment in digital infrastructure continued, albeit with some delay.** While in the previous years, Montenegro made steady progress with digitalisation, the pace of digital transformation reforms slowed down in 2022, due to protracted political uncertainty, frequent organisational changes and a series of large-scale cyberattacks on the state's IT infrastructure in the second half of 2022, which interrupted the timeline of the digital transformation reforms. These cyberattacks spurred Montenegro's government to focus one of the new reforms on cybersecurity. The telecoms operator auctioned the 5G spectrum and awarded it to three major operators in December 2022. All three operators are obliged to activate 5G in every municipality by the end of 2024 while providing 5G coverage to 50% of population by 2026.

**Modernising the transport sector requires broad action.** The strategic steer for developing the sector should be revised, in line with the EU development priorities and Transport Community Treaty commitments (on sustainable and smart mobility), and move away from the current emphasis on road transport. Montenegro scores very low on connectivity. Progress on improving and modernising short sections of the road and rail networks is slow and mainly thanks to EU funding. The first section of the Bal-Boljare highway was finished in July 2022. For the completion of the entire Bal-Boljare highway, an outdated feasibility study needs to be updated, in line with the forecast traffic volumes and envisaging a

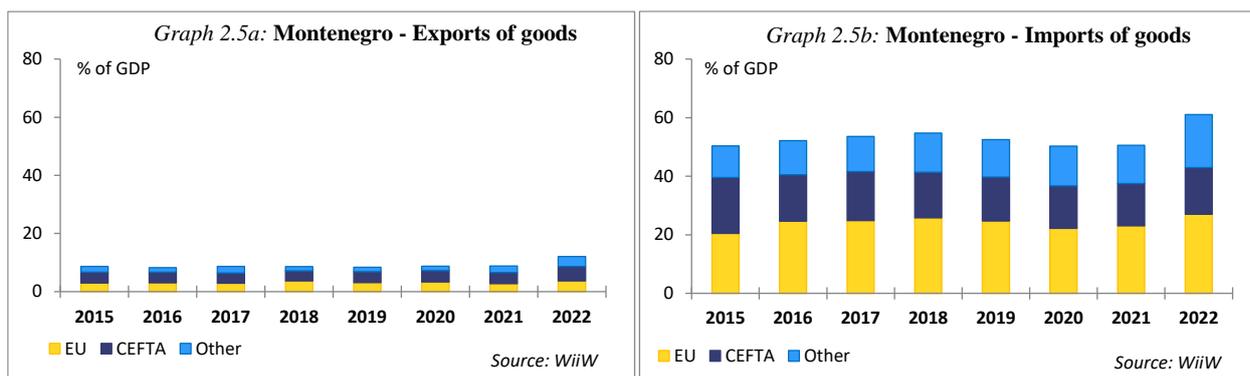
multimodal corridor, encompassing rail, road and the port of Bar. Works on upgrading the Bar-Vrbnica railway, a core network corridor, continued during the reporting period. Further action is needed to open up the rail market to competition and to complete regulatory reforms that have been neglected for years. The (currently suspended) tender for a concession to maintain and upgrade the country's two main airports in Podgorica and Tivat could help address the country's limited accessibility by air.

#### Sectoral and enterprise structure

**The structure of the economy remains broadly unchanged, although certain adjustments are taking place within sectors.** Micro, small and medium-sized enterprises constitute the backbone of the Montenegrin economy, accounting for 57.8% of total employees in 2022. They continue to be dominated by micro enterprises, accounting for 99% of all firms. Across sectors, the distribution of employment remained broadly stable in 2022, with the services sector absorbing 76.7% of total employment, while industry and construction (19%) as well as agriculture (4.3%) accounted for much lower shares. Employment in the ICT sector surged by 48% year on year in 2022, affected by the immigrant workers from Russia registering businesses in Montenegro, which coincides nevertheless with a severe drop in knowledge-intensive services exports. The share of agriculture in gross value added declined to 6.7% in 2021, compared with an average of 7.6% in the previous 10 years, while the shares of industry and construction were roughly stable at some 10% and 5%, respectively. Over the same period, the share of wholesale and retail trade increased to 14%, up from 12%. The metallurgy sector is undergoing a major transformation after the closure of aluminium smelter KAP and Nikšič steelworks due to unsustainable production costs. In December 2022, Nikšič steelworks was taken over by the state-owned electric power company EPCG, which plans to repurpose the plant for solar panel production.

#### Economic integration with the EU and price competitiveness

**External trade surged to a record high in 2022.** Montenegro's foreign trade expanded by 43.9% year on year, while bilateral trade with the EU grew by 33.7%. Overall, trade openness (the total exchange of goods and services as a share of GDP) increased significantly to 128.7% of GDP, largely surpassing pre-pandemic levels. Exports continued to be dominated by services, which at 40.6% of GDP exceeded goods exports (12.1% of GDP) by a very wide margin. The EU remains Montenegro's main trade partner, accounting for 30.3% of total exports and 44.3% of total imports of goods. CEFTA countries also constitute an important market, accounting for 41.7% of Montenegro's total exports and 26.1% of total imports of goods. The EU also remains the main source of FDI inflows for Montenegro, accounting for 33% of total FDI inflows in 2022, compared with 36.4% in 2021. Other countries with a sizeable share in Montenegro's FDI inflows include Russia and the United Arab Emirates, mainly due to active participation of investors in the controversial economic citizenship programme. Montenegro's price competitiveness was damaged by a widening inflation differential with the euro area.



## 2.4. PUBLIC PROCUREMENT, STATISTICS, FINANCIAL CONTROL

### Chapter 5: Public procurement

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

Montenegro is **in between moderate and a good level of preparation** in the area of public procurement. **Some progress** was achieved in 2022 in aligning with the EU *acquis* and in further improving the functioning of the electronic procurement system.

The recommendations from last year were partially implemented. Therefore, some remain valid. In the coming year, Montenegro should, in particular:

- focus on the effective implementation of public procurement and public-private partnership legislation;
- greatly reduce the number and value of negotiated procedures without a prior publication of contract notice;
- fully respect the public procurement rules in all cases.

#### Institutional set-up and legal alignment

The **legal framework** on public procurement is well aligned with the EU *acquis*. Amendments to the Law on public procurement entered into force in January 2023. Together with the related implementing acts, these amendments further aligned Montenegrin legislation with the EU legal acts in this area. In February 2023, the government adopted a report on the implementation of the 2021-2025 strategy for enhancing public procurement and public-private partnership policy in Montenegro and a corresponding action plan for 2023.

The electronic public procurement system (CEJN) is fully operational. All public procurement procedures in the country are conducted through the system. Improvements to the CEJN were announced in 2022, but were postponed to the end of 2023. These include functional connections with other electronic registers of the state (criminal records of the Ministry of Justice, records on tax obligations and on mandatory social security contributions of the Revenue and Customs Administration and records of the Agency for the Prevention of Corruption).

The tender for the concession to operate Airports of Montenegro has been suspended since 2020. For Montenegro to meet the requirements of this negotiating chapter, it is essential to

comply fully with the EU rules on and standards of fair and transparent public procurement, providing value for money, competition, and strong safeguards against corruption.

#### Implementation and enforcement capacity

Montenegro's **public procurement market** corresponded to 8.74% of GDP in 2022 and the value of all public procurement procedures amounted to some EUR 506 million. This was much above the values achieved in 2021, but significantly below the record level of 2020 (13.1% of GDP, EUR 545 million). The use of the CEJN helped improve the implementation of public procurement procedures in the country, with a shorter average duration of procurement procedures and an increased average number of bids per procedure (3.5) in comparison to previous years. However, the number and value of negotiated procedures without a prior publication of contract notice remains very high, at over 11% of all procurements in terms of value, conducted through the CEJN. The use of such procedures by public authorities should be exceptional, given the potential for irregularities and corruption.

In the area of **monitoring of contract award and implementation**, the Public Procurement Inspectorate carried out 266 checks, which was 11% less than in 2021, due to the reduced number of inspectors. Most checks related to contract conclusion, contract execution and implementation of simple procurements.

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

The **capacity to manage public procurement** processes improved thanks to the full implementation of e-procurement. However, the high number of small contracting authorities undermines the efficiency of procurement processes. In particular, the capacity of small municipalities to conduct more complex procurement procedures, including for EU-financed projects, remains limited.

The administrative capacity of the Directorate for Public Procurement Policy in the Ministry of Finance and Social Welfare remained stable. The Directorate systematically organises training sessions on public procurement rules and preparation courses for procurement officers. The Directorate also prepares and publishes technical instructions and expert guidance on procurement rules.

#### Efficient remedy system

The legislation on the **right to appeal** is in line with the EU *acquis*. Cases are handled by the Commission for the Protection of Rights in Public Procurement Procedures. The Commission is currently understaffed. There were no significant delays in treating and resolving complaints and the remedy system works efficiently.

The Commission for the Protection of Rights resolved 169 complaints in 2022. The number of complaints remained stable in comparison to the previous period, even though the number and value of procurement procedures significantly increased year-to-year. Appeals to the Administrative Court of Montenegro were filed against some 16% of the cases resolved by the Commission. The Administrative Court returned roughly half of these appeals to the Commission for reconsideration.

The Supreme Court of Montenegro carried out six extraordinary reviews of the decisions taken by the Administrative Court on procurement procedures and in five cases rejected the lawsuits as unfounded, while in one case modified the decision as regards the costs of the dispute.

## Chapter 18: Statistics

*EU rules require Member States to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are in place for the methodology, production and dissemination of statistical information.*

Montenegro is **moderately prepared** in the area of statistics. **Limited progress** was made on last year's recommendations. Work continued on harmonising the statistical methodology with EU standards and increasing transmission of data to Eurostat. However, pending issues remain regarding insufficient financial and human resources of the Statistical Office of Montenegro (MONSTAT) and its lack of expertise in some areas; systematic cooperation and coordination of tasks between the Ministry of Finance, the Central Bank of Montenegro and MONSTAT; and transmission of some fundamental datasets such as government finance statistics, as well as financial accounts and excessive deficit procedure tables to Eurostat. The planned national population and housing census requires careful handling by the authorities, notably as concerns sensitive issues of ethnicity, religion and language.

The recommendations from the 2022 report remain valid. In the coming year, Montenegro should in particular:

- considerably strengthen the human and financial resources of MONSTAT, so that it can fully fulfil its responsibilities and retain expert staff;
- make significant progress in aligning with the European System of Accounts (ESA) 2010, including by starting to transmit to Eurostat government finance statistical data, as well as properly filled excessive deficit procedure tables;
- carry out the national population and housing census in line with EU requirements and recommendations and allocate sufficient resources to it.

The legal framework for **statistical infrastructure** is broadly in line with the European Statistics Code of Practice. MONSTAT is the main producer and overall coordinator of statistics. The number of MONSTAT employees remains low at 60% of the number of posts envisaged in the organisation chart. The Ministry of Finance has still not made new premises available to MONSTAT. This remains a serious issue, as the current building is not appropriate for a national statistical office. In 2022, MONSTAT carried out a user satisfaction survey and published the results on its official website.

On **classifications and registers**, there is high compliance in terms of implementation of the current versions of the NACE (nomenclature of economic activities), CPA (classification of products by activity), ISCO (international standard classification of occupations) and ISCED (international standard classification of education) classifications.

In the area of **macroeconomic statistics**, Montenegro improved the presentation of the gross national income (GNI) inventory, including the process tables. Compliance with national accounts according to ESA 2010 is at medium level. In the next period, MONSTAT should focus on improving estimates and updating and extending the GNI inventory. Regarding the consumer price index / harmonised index of consumer prices (HICP), the automatisisation of the data processing and dissemination process was completed. MONSTAT has successfully corrected the aggregation inconsistencies in the HICP back series. Montenegro does not produce the HICP at constant taxes and is working on its introduction, and it needs to improve the production of the house price index (HPI) and send the data to Eurostat. Montenegro sends quarterly balance of payments (BOP) and international investment position (IIP) data according to the methodology set out in the balance of payments and international investment

position manual (BPM6) to Eurostat, but it still does not send monthly balance of payments statistics and needs to improve the geographical breakdown of BOP and IIP data. Government finance statistics (GFS) were never sent to Eurostat and excessive deficit procedure (EDP) tables are sent mostly empty. Work is also ongoing on amending the Law on official statistics.

In the area of **business and trade statistics**, Montenegro is fully compliant for 7, partly compliant for 5 and non-compliant for 2 datasets of the 14 short-term business statistics (STS) datasets (relevant out of the total of 16 STS datasets). Punctuality of the transmitted datasets is good and the reasons for non-compliance are partial coverage of NACE activities and lacking adjustments. Data on quarterly business demography and services producer prices is lacking. As regards structural business statistics, Eurostat received some data in 2022 with reference year 2020. Compliance in the area is low, but there is progress compared to last year. On international trade in services, Montenegro is highly compliant, while on international trade in goods, there is medium compliance and further work is needed.

In the area of **social statistics**, the Parliament adopted the Law on the census of population, households and dwellings in December 2022. The government decided that the census should be carried out in the first part of November 2023. MONSTAT is preparing for the implementation of the census and in that sense cooperates with the Administration for Cadastre and State Property, and local authorities responsible for updating the register of spatial units.

In the area of **agriculture statistics**, the preparation of the agricultural census in accordance with the new EU legislative framework is ongoing and its implementation is planned for 2024. The population and housing census will be used to check who will need to be covered by the agricultural census.

In the area of **environmental statistics**, Montenegro is considered fully compliant on waste statistics, but it does not report data on water statistics and on environmental accounts.

**Energy statistics** are overall moderately compliant. MONSTAT is fully compliant with semestral statistics, but on annual statistics progress is needed especially in terms of quality, while monthly statistics are non-compliant.

### **Chapter 32: Financial control**

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

Montenegro is **moderately prepared** in the area of financial control. Overall, **limited progress** was made in implementing last year's recommendations. A new public finance management reform programme was adopted in December 2022, which means that the strategic framework for public internal financial control is now broadly in place. The reform programme contains measures on the application of managerial accountability, complementing those in the public administration reform strategy, even though their implementation is still limited. On external audit, the State Audit Institution improved its capacity to monitor the implementation of audit recommendations and continued to work for more open and transparent communication with the Parliament. Nevertheless, efforts are needed notably to further strengthen the financial management and to complete the legal framework for the fight against fraud. Last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- further operationalise the centralised budget inspection function of the Ministry of Finance, by allocating appropriate human resources;
- extend the application of managerial accountability in public administration, with increased delegation of authority in the field of financial management and internal control;
- further align its legislation with the EU *acquis* on the fight against fraud to the EU's financial interests and further strengthen the coordination capacity of the National Anti-Fraud Coordination Service, including by adopting amendments to the Criminal Code and a new national anti-fraud strategy for 2024-2027.

### Public internal financial control (PIFC)

Montenegro's **strategic framework for PIFC** is broadly in place. The public administration reform (PAR) strategy for 2022-2026 is now accompanied by a new public finance management (PFM) reform programme, which was adopted in December 2022. The government adopts annual reports on the implementation of the PAR strategy and the PFM reform programme as well as on governance and internal control in the public sector.

As concerns **managerial accountability**, the new strategic framework provides a solid basis for further work, as both the PAR strategy and the PFM reform programme include development of managerial accountability as one of the key objectives. However, the application of managerial accountability in public administration remains limited, notably as concerns the delegation of authority in the field of financial management and internal control.

The legislative and operational framework for **internal control and internal audit** is in place, covering also local government entities and state-owned enterprises. A revised Law on governance and internal control is in preparation. The legislative framework is in line with international standards based on the Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework. In November 2022, the government adopted implementing legislation to harmonise the internal audit system with the Decree on the organisation and manner of work of the state administration.

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

In the area of **internal audit**, there is no appropriate staffing at neither central nor local level. In 2022, the Ministry of Public Administration created a specialised internal IT audit unit carrying out IT audits in all public institutions. An internal IT audit strategy is in preparation.

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

At the level of PIFC, an **anti-corruption** system exists but requires further improvement. All public entities are informing the CHU on suspicions of irregularities and fraud through the reporting system. CHU keeps the register on these cases and monitors the mitigation measures and actions undertaken. However, very few bodies have reported any irregularities.

## External audit

The Constitution of Montenegro and the current legal framework ensure the functional, operational and financial independence of the State Audit Institution (SAI), in line with the standards of the International Organization of Supreme Audit Institutions (INTOSAI). The SAI further improved its **institutional capacity** in terms of auditing staff. Most of its auditors (90%) are certified and have access to internal and international training. The SAI president's tenure ended in July 2022, but the Parliament has not appointed a new president yet. Also, the position of one of the five members of the SAI Senate remains vacant.

On **quality of audit work**, the SAI adopts and implements its annual audit plan based on risk assessment and on clearly stated criteria. During the reference period, it performed 38 audits. The SAI improved its performance audit capacity. It now has more sectors, it can carry out a greater number of parallel audits, and its audit staff have improved their skills by attending training programmes. The SAI carried out a self-assessment of its work by applying the international methodology for performance measurement, forming the basis for the strategic development plan of the SAI for 2023-2027, which was adopted in March 2023.

The SAI continued to increase the **impact of its audit work** by improving the process of monitoring the implementation of audit recommendations and by strengthening cooperation with key stakeholders. All SAI reports are publicly available, and in 2022, the SAI also started to publish reports on the implementation of recommendations from audit reports. During the reporting period, the SAI published 30 such reports. Furthermore, the SAI drew up a register of audit recommendations, which enables the public to monitor the status of implementation of audit recommendations. The SAI submitted all reports timely to the Parliament, which considered the SAI's annual report on performed audits and activities, including the audit of the final state budget account. However, the Parliament still does not ensure a structured follow-up of the SAI recommendations.

The **Audit Authority** increased its oversight capacity in terms of both human resources and the number of performed audits, with improvements in management, accountability and transparency in the use of EU funds. In November 2022, the government appointed a new Head of the Audit Authority, but the Authority's human resources are yet to be further strengthened as 12 positions remain vacant.

## Protection of the EU's financial interests

As concerns **alignment with the EU *acquis***, amendments to the Criminal Code are yet to be adopted to fully align national legislation with the EU Directive on the fight against fraud to the EU's financial interests by means of criminal law. Supported by an EU-funded twinning project, the Anti-Fraud Coordination Service (AFCOS) improved its capacity to fight irregularities and fraud and to coordinate the AFCOS network for the protection of the EU's financial interests. A new national anti-fraud strategy for 2024-2027 with a corresponding action plan is still not in place.

**Cooperation and exchange of information with the European Commission (OLAF)** during investigations remains active. The cyberattack of August 2022 negatively affected direct communication with OLAF as the Irregularity Management System (IMS) was disabled. Despite this, five new irregularity cases were reported in IMS. Montenegrin authorities should continue building a track record of reporting of irregularities and of cooperation with OLAF on investigations.

## Protection of the euro against counterfeiting

Montenegro's **legislation** on protecting the euro against counterfeiting is in place. The

country has the necessary **structures** for technical analysis and classification of counterfeit money, including euro banknotes and coins.

Since 2021, the Decision of the **Central Bank of Montenegro** (CBCG) on authenticity and fitness checking and recirculation of euro banknotes and coins has been fully harmonised with the relevant Decision of the European Central Bank (ECB).

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

### 3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

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

Montenegro maintained its engagement in a number of regional initiatives, such as the Central European Free Trade Agreement (CEFTA) where it took over the chairmanship in January 2023, the Energy Community, the Transport Community, the South-East European Cooperation Process and the Regional Cooperation Council. From 1 July 2022 to 30 June 2023, Montenegro chaired the South-East European Cooperation Process. The priorities of the Montenegrin Chairmanship-in-Office were to: strengthening of economic and security co-operation and infrastructural connectivity, protection of human rights rule of law, strengthening of democratic institutions, mitigating and overcoming the health, economic and other consequences of the Covid-19 pandemic, environmental protection and European integration of countries from the region of Southeast Europe. Montenegro also actively participates in initiatives such as the Central European Initiative (CEI) and the Centre for Security Co-operation (RACVIAC).

The **EU-Western Balkans Summit** in December 2022 took place for the first time in the region, in Tirana. The summit focused on support to the region in the fields of energy and migration, and on youth cooperation, roaming, green lanes and overall progress on implementing the Economic and Investment Plan.

In August 2023, President Milatovic participated at an informal discussion on EU enlargement in Athens, hosted by the Greek PM Mitsotakis, whereas PM Abazović participated at the Bled Strategic Forum together with the other WB leaders.

On the **Common Regional Market**, a political breakthrough was achieved at the Berlin Process Summit in Berlin in November 2022, where leaders adopted the three mobility agreements. The Parliament has ratified all three Common Regional Market agreements on the freedom of movement based on identity cards, on recognition of professional qualifications for regulated professions, and on recognition of academic qualifications. However, the agreements have not yet been signed by the President. A number of important decisions agreed at the technical level within CEFTA remain blocked.

In May 2023, Montenegro hosted the **Connectivity Summit**, which achieved a joint declaration *Taking forward the Green Lanes* signed by all participants, and a high-level understanding on indicative maps of the trans-European transport network in the Western

Balkans between the EU and the contracting parties to the Transport Community Treaty.

Montenegro continued to closely cooperate with Croatia, Bosnia and Herzegovina and Serbia under the **Sarajevo Declaration Process**, which aims to find sustainable solutions for refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. By the end of March 2023, 617 housing units had been built, purchased or reconstructed in Montenegro under the **Regional Housing Programme**. These units can accommodate 2 117 people. Significant challenges remain regarding the economic and social integration and wellbeing of many families, needed to ensure sustainability of return.

Montenegro continued to participate actively in the regional **Missing Persons Group** and contributed to the implementation of the provisions of its framework plan. The Commission on Missing Persons of Montenegro continued to cooperate with neighbouring countries under bilateral cooperation protocols. There are 51 active cases of missing persons who are Montenegrin citizens or whose families reside in Montenegro.

**Montenegro generally maintains good bilateral relations** with other enlargement countries in the region and with neighbouring EU Member States.

Relations with *Albania* remained good with occasional high-level bilateral visits. In February 2023, the governments of Albania and Montenegro held the second joint government session in Podgorica, confirming the good and friendly relations between the two countries. The Prime Ministers signed a series of bilateral agreements/memorandums intended to improve cooperation in several areas of common interest related to energy, fishing, plant protection, labour and social protection, sports, culture, media, defence, health and infrastructure. On the latter, an agreement for the construction of a bridge on the Buna River to connect the coastal areas of Ulcinj (Montenegro) and Velipoja (Albania) was reached and the opening of the border point Saint Nicholas – Pulaj was announced.

Relations with *Bosnia and Herzegovina* remained good overall. The agreed border demarcation is yet to be physically marked and three joint border crossing points remain to be set up. In December 2022, the Council of Ministers of Bosnia and Herzegovina and the government of Montenegro signed a memorandum of understanding and cooperation on the implementation of infrastructure projects. The participation of the Montenegrin Finance and Justice Ministers on 9 January 2023 in a ceremony in Banja Luka celebrating the unconstitutional day of Republika Srpska sparked strong reactions and controversy in Montenegro and regionally. In February 2023, the Minister of Foreign Affairs of Bosnia and Herzegovina paid an official visit to Podgorica.

Relations with *Kosovo* remained good. In October 2022, Montenegro and Kosovo signed a Memorandum of Understanding on co-operation on the implementation of infrastructure projects. The President of Kosovo visited Montenegro in February 2023 and the Prime Minister of Montenegro visited Kosovo in April 2023. A number of meetings took place at the level of Prime Ministers and Foreign Ministers at the margins of international and regional events.

Relations with *North Macedonia* remained good. In February 2023, the Minister of Foreign Affairs of Montenegro and the Minister of Foreign Affairs of North Macedonia met in Skopje to discuss the development of bilateral relations, regional cooperation, the process of European integration, and the strengthening of the countries' partnership under the NATO alliance. In March 2023, the Prime Ministers met at the margins of the World Economic Forum in Davos. The Foreign Minister of North Macedonia held meetings with the President and Prime Minister of Montenegro in the margins of the Adriatic Charter Meeting in March 2023. The two Prime Ministers met in the margins of the Delphi Economic Forum in March

2023. The two countries signed a Programme of Cooperation in the area of culture for the period 2023-2026.

Relations with **Serbia** are overall stable, with occasional mutual accusations. In September 2022, the Prime Minister of Montenegro visited Serbia, for a wine fair. Controversy was sparked in mid-December 2022 when mayors and heads of local assemblies of six Montenegrin municipalities, all representatives of the former Democratic Front, attended a session of the Serbian Parliament's Committee for Diaspora and Serbs in the Region, discussing the position and status of ethnic Serbs in Montenegro. In ministerial meetings, economic opportunities and the strengthening of bilateral cooperation took the forefront rather than bilateral issues. After an inaugural visit to Brussels, in July 2023 the President of Montenegro paid his first official visit abroad to Belgrade to discuss with the President of Serbia the appointments of Ambassadors to their countries. The two Presidents met again shortly after in Athens. In August 2023, the entry ban of the former Serbian Ambassador to Montenegro Bozovic, was lifted.

Bilateral relations with **Türkiye** remained stable. Montenegro provided financial and humanitarian assistance to Türkiye following the devastating February 2023 earthquakes.

Relations with **Ukraine** remained good. Montenegro continued to provide unequivocal support to Ukraine in light of the Russia's war of aggression including humanitarian and military aid. In December 2022, the Prime Minister of Montenegro and the President of Ukraine signed a joint declaration on the Euro-Atlantic perspective of Ukraine.

Relations with the **Republic of Moldova** are overall good. In February 2023, allegations of Montenegrin and Serbian football fans' involvement in destabilising activities promoted by Russia in Moldova created short-lived tensions. The Presidents of Montenegro and Moldova met at the margins of the European Political Community in Chisinau in June 2023. Montenegro and Moldova also maintain relations through the South-East European Cooperation Process (SEECPC).

Relations with **Georgia** are generally friendly, although the level of engagement is not as extensive as the relations with other enlargement countries. In April 2023, the Parliament Speaker of the Montenegrin Parliament met her Georgian counterpart.

Relations with **Croatia** remained good with occasional tensions arising in relation to pending bilateral issues and/or some historical events. In January 2023, the Prime Ministers met at the margins of the World Economic Forum in Davos. In September and October 2022, then Foreign Affairs and Defence Ministers, together with their Croatian counterparts, erected memorial plaques on the Croatian island Vis and at the former Yugoslav People's Army-run Morinj detention camp in Montenegro, commemorating events from the 1990s. This caused controversy and the Basic State Prosecution Office opened a preliminary investigation against the Ministers. There was no progress regarding the pending border demarcation between the two countries. The dispute between the two countries regarding the ownership of the sailing ship "Jadran" continues. In August 2023, the Croatian Ministry of Foreign Affairs sent a strong protest note to Montenegro due to Montenegro's celebration of the ship's 90<sup>th</sup> anniversary.

Relations with **Italy** remained good. In June 2022, the Ministers of Defence met in Rome, followed by meetings with the Chairman of the Defence Committee in the Lower House and the Chairman of the Defence Committee of the Senate. In July 2022, the Minister of Foreign Affairs met with the President of the Italian Chamber of Deputies.

## 4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

### CLUSTER 2: INTERNAL MARKET

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

Progress was achieved in different areas e.g. on market surveillance, accreditation and standardisation; continued alignment with the Services Directive and EU postal *acquis*; legislation on accounting, work on a new company law; progress on *acquis* alignment on intellectual property rights, adoption of a new national comprehensive strategy on Intellectual Property and accession to the European Patents Organisation and European Patents Convention. State aid transparency and strengthening of administrative capacities, alignment of the banking sector of Montenegro with the latest EU *acquis* also advanced, as well as adoption of implementation legislation on health protection.

In the coming period, Montenegro is invited to focus on the following areas: alignment with the EU *acquis* governing standardisation; step up efforts to improve the institutional set-up and administrative capacity of the Employment Agency, establish a fully operational point of single contact, continue with the implementation and enforcement of the new postal market rules, continue to develop qualifications for regulated professions; accelerate progress on electronic company registration, align with the *acquis* on capital movements and payments, including on the acquisition of property rights and monitor the phasing out of the investors' citizenship scheme; align with the Transparency Directive; adopt the new company law, finalise the revision of the Corporate Governance Code, start implementing the new national intellectual property strategy and the activities under its 2023 Action Plan; improve the track record in the area of competition and State aid, adopt a plan to ensure the financial independence of the Agency for the Protection of Competition and progress on the major State aid cases including follow up on the recovery of unlawful State aid; complete alignment of national legislation with the EU consumer protection and health protection *acquis*; significantly advance work on the insurance and capital market laws aligned with EU legislation.

#### Chapter 1: Free movement of goods

*The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.*

Montenegro is **moderately prepared** in the area of free movement of goods. **Some progress** was made overall, by further aligning national legislation with the EU *acquis*, notably on technical requirements for products and conformity assessment as well as on standardisation and metrology. Montenegro also took further steps to make the national standardisation body a full member of both the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC). On chemicals management, Montenegro adopted implementation legislation and a new 2024-2026 chemicals management strategy. The sector's situation in terms of human resources and funding improved overall, but further strengthening of the quality infrastructure bodies is required.

Therefore, some of last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- continue to align its legislation with the EU *acquis*, as envisaged in Montenegro's accession programme;
- ensure the implementation and enforcement of the Montenegrin legislation on chemicals management that is aligned with the EU *acquis*;
- continue to strengthen the human and financial capacity of its quality infrastructure bodies.

### General principles

Montenegro continued to make progress in aligning its legislation with the EU *acquis*, as envisaged in the national action plan. In December 2022, the Parliament adopted amendments to the Law on technical requirements for products and conformity assessment. The amendments introduce a 'multilateral clause' for all products belonging to the non-harmonised area. Under this clause, such products can be placed on the Montenegrin market without additional legal obstacles if they are placed on the market of the EU, the EFTA countries and Türkiye. The government adopted implementing legislation on standardisation and metrology. In March 2023, the government adopted the 2023 annual plan for the adoption of Montenegrin standards and related documents along with the 2023 work programme and financial plan of the Institute for Standardisation of Montenegro (ISME).

### Non-harmonised areas

Montenegro continued to implement its action plan for compliance with **Articles 34-36 of the Treaty on the Functioning of the European Union (TFEU)** on prohibition of quantitative restrictions and with the new EU Regulation on notification of technical regulations.

### Harmonised area: quality infrastructure

As concerns **standardisation**, ISME published 1 952 Montenegrin standards aligned with EU standards. In the first quarter of 2023, CEN/CENELEC assessed ISME's adoption rate at almost 91% of European standards at national level (89.27% for CEN standards and 91.46% for CENELEC standards), representing a slight improvement over the year. Following ISME's application for full membership of CEN/CENELEC, CEN/CENELEC conducted an assessment visit, during which it identified eight non-conformities. In January 2023, CEN/CENELEC sent formal recommendations to ISME to revise its action plan to ensure fulfilment of all required criteria. ISME's human resources require further strengthening as only 77% of established job positions are filled. ISME's 2023 budget increased by 62% compared to 2022.

On **metrology**, the capacity of laboratories for temperature and pressure and for testing precious metal articles improved. The Bureau for Metrology recruited two new staff but kept the same number of posts overall (49).

The **Accreditation Body of Montenegro (ATCG)** accredited 44 conformity assessment bodies (26 testing laboratories, 2 calibration laboratories, 2 medical examination laboratories, 8 inspection bodies, 3 bodies for product certification and 3 bodies for certification of management systems), broadly similar to the last reporting period. Of these, two accredited conformity assessment bodies are temporarily suspended. In October 2023, ATCG signed a Multilateral Agreement in the framework of the European co-operation for Accreditation

(EA).

On **market surveillance of products**, inspection services carried out 3 487 market surveillance inspections (3 114 inspections in the area of proactive surveillance and 373 inspections in the area of reactive surveillance) compared with 2 137 in the previous reporting period. A total of 1 284 types of dangerous and non-compliant products were identified (37 504 items). Relevant inspection services imposed corresponding administrative measures. The Administration for Inspection Affairs recruited two new health inspectors, but it needs further staff.

#### Harmonised area: sectoral legislation

Regarding **‘new and global approach product legislation’**, Montenegro amended implementing legislation in the areas of construction (transitioning to Eurocodes), energy efficiency and eco-design to ensure further alignment with the EU *acquis*. Since 1 January 2023, the application of Eurocodes for calculating building structures is mandatory in Montenegro.

Similarly, on **‘old approach product legislation’**, the government adopted implementing legislation on dangerous chemicals and on the content of information on cosmetic products placed on the market to increase the level of alignment with the relevant EU *acquis*. The government adopted a number of secondary legislative acts to implement the Law on chemicals, and the new chemicals management strategy for 2024-2026 was adopted in August 2023.

National legislation is not yet aligned to the latest EU *acquis* on motor vehicles, two or three wheeled vehicles, tractors (agricultural, forestry), or non-road mobile machinery emissions.

On **procedural measures**, Montenegro’s legislation is aligned with the EU *acquis* as concerns the technical requirements on crystal glass and textile labelling. In the reporting period, the maximum prices of all medicines were set according to Montenegro’s legal framework and made publicly available.

As concerns **anti-corruption measures** under this chapter, the Administration for Inspection Affairs adopts annually an integrity plan that determines anti-corruption measures and identifies risks. In addition, Montenegro’s Law on medicines contains provisions aiming at the prevention of corruption.

## **Chapter 2: Freedom of movement for workers**

*Citizens of one EU Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.*

Montenegro has **some level of preparation** in this area. In the reporting period, **limited progress** was achieved related to the further conclusion of bilateral social security agreements. Montenegro needs to address the long-standing recommendations to step up the administrative and technical capacity of the Employment Agency.

In the coming year, Montenegro should in particular:

- step up efforts to reform the institutional set-up and improve the administrative and technical capacity of the Employment Agency with a view to ensure the provision of relevant and evidence based active labour market policies;
- further strengthen structures to implement the EU *acquis* in this area;
- continue to work on the conclusion of further bilateral social security agreements.

Concerning **access to the labour market**, there were no major legislative developments. The constitutive meeting of the Chapter 2 Working Group only met once, on 27 March 2023 during which the new membership structure of the group was confirmed and the accession programme of Montenegro for 2023-2024 was discussed. The Commission notes that the Action Plan related to the implementation of EU *acquis* in this area expired in 2022. In July 2022, the Parliament adopted amendments to the Law on foreigners that defined the concept of digital nomads and introduced temporary residence permits for the said category of persons. Furthermore, three rulebooks related to this Law were adopted. These amendments are part of broader efforts to create sustainable solutions to attract foreign companies' teleworkers to Montenegro. Work is ongoing on further amendments to the Law on foreigners to align with a number of EU directives to ensure that EU migrant workers enjoy same work conditions, social and tax exemptions as domestic workers. In November 2022, due to lack of administrative and technical capacity, the government decided to postpone until EU accession, the application of procedures for handling foreigners' requests for temporary residence and seasonal employment permits through Montenegro's representations in their countries of origin. Based on the Decision on determining the annual number of permits for temporary residence and work of foreigners for 2023, in the period January-May 2023, a total of 14,185 permits for temporary residence and work were issued, which is about 30% more compared to the same period of the previous year.

In preparing to join **EURES** (European network of employment services) upon accession to the EU, there were limited developments due to delays in launching technical assistance projects. A twinning project to strengthen the capacity of the Employment Agency started in April 2023. On the **coordination of social security systems**, the number of signed bilateral agreements in force is 24. An agreement on social insurance was signed with Albania in February 2023. The ratification of the said agreement is pending in Parliament. In December 2022, the Parliament ratified the Agreement on Social Security between Montenegro and Romania. Negotiations with Serbia and Bosnia and Herzegovina remain pending. The draft Law on Voluntary Pension Funds is being prepared, to allow additional retirement rights of employees and self-employed persons in the context of freedom of movement of workers.

The **European Health Insurance Card** is recognised under the Law on compulsory health insurance but will only be introduced after EU accession. No progress was achieved during the reporting period. The number of agreements with EU Member States on the use of the card remained at five (Austria, Germany, Luxembourg, Slovakia and Slovenia). In line with the 2022 Health Insurance Fund staffing plan, three executors were hired for the position of senior adviser for international health insurance (Regional Units: Podgorica, Bar and Herceg Novi) through a public call. A public call was launched in March 2023 for two further similar posts in Pljevlja and Bijelo Polje.

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

*EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradual market opening to competition, and the establishment of an independent regulator.*

Montenegro remains **moderately prepared** in this area. **Limited progress** was registered during the reporting period through the completion of alignment with the Regulation on cross border parcel delivery services as per last year's recommendations, which remain largely valid.

In the following period, Montenegro should in particular:

- set up a fully operational Point of Single Contact (PSC);
- continue inter-ministerial coordination and ensure proper monitoring of legislative alignment with the EU Services Directive, and the EU acquis on the mutual recognition of professional qualifications including the Professional Qualifications Directive and the Proportionality Test Directive, while continuing the implementation and enforcement of the new postal market rules;
- accelerate the alignment of all study programmes with the Professional Qualifications Directive and continue coordination with the Commission specifically on alignment with minimum training requirements under the Directive.

On the **right of establishment and freedom to provide cross-border services**, Montenegro continued to align its sectorial legislation with the EU Services Directive, along with efforts to improve the mechanism to monitor this legislative alignment. As part of an EU technical assistance project, preparatory activities to set up a PSC for services portal were launched. A Decree on cooperation and exchange of information between institutions for access and provision of PSC services was adopted in July 2023. Efforts to introduce electronic company registration continued, albeit at a much slower pace than in 2021.

On **postal services**, the national legislation is aligned with the EU Postal Services Directive where Montenegro has made good progress over the years. The reserved area was abolished already in 2013, and complemented by bylaws to implement European quality standards for the provision of postal services in 2020. Montenegro has also completed its alignment with the EU Regulation on cross-border parcel delivery services in December 2022, when the Agency for Electronic Communications and Postal Services adopted amendments to the rulebook on the type and method of submitting data by postal operators. The number of postal operators is currently 26. In April 2023, the government adopted the implementation report of the 2022 action plan on the postal development strategy and the 2023 action plan. A new Strategy for the Development of the Postal Service for the period 2024-2028 is envisaged. Montenegro should continue monitoring the proper implementation and enforcement of the new postal market rules.

On **mutual recognition of professional qualifications**, Montenegro has a satisfactory level of alignment with the EU *acquis*. Montenegro, however, should follow up on measures set out in the national plan to develop qualifications for regulated professions: this will ensure continuous alignment with the EU *acquis*. In April 2023, the Parliament adopted the Law on confirmation of the Agreement on the recognition of professional qualifications for doctors of medicine, dentists and architects under the Central European Free Trade Agreement signed within the framework of the Berlin Process. This law is currently pending signature by the President. More effort in the alignment with the minimum training requirements of all sectorial professions under Directive 2005/36/EC on the recognition of professional qualifications is needed.

#### **Chapter 4: Free movement of capital**

*In the EU, capital and investments must be able to move without restrictions, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.*

Montenegro is **moderately prepared** in this area. **Some progress** was made during the reporting period. The legal framework on payment systems was further aligned with the EU

*acquis*. The investor citizenship scheme was phased out at the end of 2022, but a number of pending applications are still being processed.

All past recommendations not fully addressed remain valid. In the coming year, Montenegro should in particular:

- continue aligning with the EU *acquis* on capital movements and payments, including on the acquisition of property rights by EU nationals;
- strengthen the anti-money laundering supervision of the non-financial sector, particularly in high-risk areas, such as games of chance, by amending the Law on games of chance and the Law on the prevention of money laundering and terrorism financing;
- continue to monitor risks related to money laundering when processing pending applications to the investor citizenship scheme.

In the area of **capital movements and payments**, since 2017, a regime of free movement of capital, no limitation on the transfer of property, and no foreign exchange or currency control has been in place. However, Montenegro needs to further align its legal framework with the EU *acquis*. Montenegro has yet to implement its obligations under the Stabilisation and Association Agreement as regards amending the Law on ownership rights, removing preferential treatments and ensuring that EU nationals can buy real estate or farming land under the same conditions as Montenegro nationals.

As regards the **payment system**, the Parliament adopted amendments to the Law on payment systems in September 2022 to align it with the EU *acquis*. Four implementing acts to this law were adopted by the Central Bank of Montenegro, to align the regulatory technical standards in the area of payments to the ones of the EU. Further to the adoption in December 2021 of a Law on comparability of fees related to consumer payment accounts, payment account switching and payment accounts with basic features, in September 2022, the Central Bank adopted two implementing regulations, which entered into force on 9 January 2023.

In the area of **anti-money laundering and terrorist financing**, Montenegro has yet to align its legal framework with the fifth Anti-Money Laundering Directive and with the recommendations of the Financial Action Task Force. Amendments to the Law on games of chance were prepared but have yet to be adopted. The Law on international restrictive measures, a crucial act against the background of international and EU sanctions, has yet to be aligned with EU standards.

Montenegro currently has three payment institutions. The Central Bank continued to fulfil its supervisory function in the area of anti-money laundering and prevention of terrorist financing. In 2022, it performed regular on-site controls of nine banks, one payment institution, two microcredit institutions and one company, to check the compliance of their operations. It also performed one thematic targeted control upon request of the Financial Intelligence Unit, embedded in the police, and several follow up controls of financial institutions. In 2022, the Directorate for supervision in the area of prevention of money laundering and international restrictive measures of the Ministry of Interior conducted 136 inspections of reporting entities. Some 65 misdemeanour orders were issued, for an amount of EUR 113 900.

The Central Bank organised training sessions for the 28 reporting entities of Montenegro, to improve their knowledge and capacity on prevention of money laundering and terrorist financing. The fifth round of evaluation of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) is ongoing.

The **economic citizenship scheme** expired at the end of 2022. Between January 2019 and December 2022, 556 applications were lodged (556 applicants and 1 281 family members). By 15 June 2023, the government had issued 954 positive decisions (293 applicants and 661 family members). Some 398 applications were still pending on 15 June 2023 (398 applicants and 710 family members). Montenegro should closely monitor risks related to money laundering when processing pending applications to the investor citizenship scheme, as such schemes pose risks as regards security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime, and are incompatible with the EU *acquis*.

## Chapter 6: Company law

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

Montenegro has a **good level of preparation** in the area of company law. **Limited progress** was made on the 2022 recommendations by adopting the implementing act to the Law on accounting.

All past recommendations not fully addressed remain valid. In the coming year, Montenegro should therefore, in particular:

- finalise, adopt and start implementing the draft Company Law to further align national legislation with the EU company law *acquis* including on the encouragement of long-term shareholder engagement, the use of digital tools and processes, and cross-border operations (mergers, divisions, conversions);
- complete alignment with the Transparency Directive, including the sanctioning regime;
- finalise the revision of the Corporate Governance Code.

In the area of **company law**, Montenegro is preparing a new company law to further align national legislation with the company law *acquis* including a number of directives in the areas of long-term shareholder engagement, the use of digital tools, cross-border operations (mergers, divisions, conversions), employee participation in cross-border operations, and the directive on gender balance on corporate boards. No progress was registered on revising the Corporate Governance Code. In the future, the national business register should be technically ready to interconnect with the EU Business Registers Interconnection.

In the area of **company reporting**, the government adopted implementing acts to the Law on accounting, including rules on company financial statements. An initiative to further amend the Law on accounting was launched. Currently, all companies must comply with international financial reporting standards (IFRS / IFRS for SMEs), while reduced obligations exist for micro and small companies (balance sheet and profit and loss account only). Montenegro will need to align with 2022 EU Directive on corporate sustainability reporting. Legislative work to achieve full alignment with the *acquis* on transparency requirements for listed companies is ongoing. The Capital Market Authority operates a registry as the Officially Appointed Mechanism for the central storage of regulated information. An initiative to amend the Law on auditing was also launched. Statutory audits are performed based on international auditing standards (ISAs) and are mandatory for public-interest entities. In February 2023, the government adopted a decision on the appointment of a new convocation of the Audit Council (composed of the chairperson and four members). The human resources capacity of the Department for Audit Oversight was strengthened with a quality assurance inspector, with two further posts to fill in the pipeline. Furthermore, a head

of accounting and one further independent adviser were appointed to the accounting division.

## Chapter 7: Intellectual property law

*The EU has harmonised rules for the legal protection of intellectual property rights (IPR), copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and broadcasting.*

Montenegro has a **good level of preparation** in the area of intellectual property law. **Good** progress was made in aligning national legislation with the EU *acquis* in the area of industrial property notably by adopting amendments to respective Laws on patents and trademarks, , and with the adoption of the new national intellectual property strategy, and accession to the European Patent Convention and the European Patent Organisation. However, improvements need to be made concerning the track record on investigations, prosecutions and judicial follow-up due to staff shortage.

In the coming year, Montenegro should in particular:

- Start implementing the new and comprehensive national intellectual property strategy for 2023-2026 and the activities indicated in the Action Plan for 2023;
- further align its legislation on copyright and related rights and enforcement of Intellectual Property Rights (IPR) with the EU *acquis*;
- improve its track record on investigations, prosecutions and judicial follow-up including by addressing staff shortages.

In the area of **copyright and neighbouring rights**, in January 2023, the government adopted the Law on amendments to the Law on copyright and related rights, which was positively assessed by the European Commission and is currently pending adoption by the Parliament. Amongst other things, these amendments aim to align national legislation with three EU Directives on certain permitted uses of works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled, coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission and enforcement of intellectual property rights. Montenegro started work on the upcoming amendments to the Law on copyright and related rights, which will aim at implementing the Directive on online transmissions of broadcasting organisations and retransmissions of television and radio programmes (SatCab II) and the Directive on copyright and related rights in the Digital Single Market.

Concerning **industrial property rights**, in March 2023, Montenegro successfully completed the test phase for an electronic submission of applications system. On 1 October 2022, Montenegro became a member state of the European Patent Organisation and acceded to the European Patent Convention. In December 2022, the Parliament adopted the Law on amendments to the Law on patents for alignment with the EU industrial property *acquis* concerning the supplementary protection certificate for medicinal products, the Law on amendments to the Law on trademarks to approximate the laws of the Member States relating to trademarks, and the Law on ratification of the Singapore Treaty on the Law on trademarks. In March 2023, the Directorate for Intellectual Property completed the translation of new terms for the Harmonised Database. In June 2023, Montenegro acceded to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications: its

ratification is pending by the parliament.

On **enforcement**, in March 2023, the Ministry of Economic Development and Tourism approved the 2023 action plan of the Working Group for organising and implementing joint action to combat infringements of IPR. In addition, the Ministry participated in international joint customs operations with the aim to detect, inter alia infringements of IPR. The number of misdemeanour warrants and the value of goods seized by the Administration for Inspection Affairs – Market Inspection show a slight increase in comparison to previous years. In the period June 2022 - April 2023, 729 controls were conducted, and 34 misdemeanour warrants were issued, amounting to EUR 34 600. More efforts are needed to improve the track record on investigations and judicial follow-up including addressing shortage of staff for both sectors. The Unit for Copyright and Related Rights carried out a special check of the compliance of the operations of all collective organisations with the 2021 amendments to the Law on copyright and related rights related to collective management of rights.

In July 2023, the country adopted the new national **intellectual property strategy** for 2023-2026 and its action plan for 2023. This comprehensive strategy aims to improve the efficiency of the system of registration and enforcement of intellectual property rights, by, inter alia, strengthening administrative capacity.

## Chapter 8: Competition policy

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

Montenegro is **moderately prepared** in this area. **Some progress** was made by further following up on a number of State aid cases including the Montenegro Airlines and Air Montenegro cases, by adopting secondary legislation in the field of State aid and through recruitment of additional personnel thus strengthening the administrative capacity. Decisions and opinions issued by the State aid authority are timely published in the State aid registers, which further increases transparency. Last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- conclude the Montenegro Airlines case and follow up on the setting-up of the new national air carrier branded Air Montenegro to provide clarity on state aid and legal continuity between the two, as well as progress on other major ongoing investigations of non-notified/possible State aid (including UNIPROM KAP, Bar-Boljare highway) and if necessary, recover the corresponding funds;
- in addition to ensuring transparency on all State aid decisions and operational independence of the State aid authority, prepare legislation to empower the Agency for the Protection of Competition (APC) to impose fines and adopt a plan to ensure the APC's financial independence;
- further improve the track record in the areas of antitrust/mergers and State aid by continuing to increase staffing of the APC, building the administrative capacity of the APC and of courts, further promoting the use of leniency policy, and carrying out more in-depth investigations and on-site inspections.

### Antitrust and mergers

The **legislative framework** is broadly aligned with the EU *acquis* (Articles 101 and 102

TFEU) and the Stabilisation and Association Agreement. The Roadmap for implementing measures to achieve the closing benchmarks under Chapter 8 has not been finalised; efforts should step up to redraft the Roadmap in the form of an Action Plan, adopt it and start its implementation. No legislation in the field of competition was adopted in the reporting period. In June 2023, the Ministry of Economic Development and Tourism adopted the Decree on the termination of the Block Exemption Decree.

As regards **the institutional framework**, in August 2022, the APC adopted the rulebook on internal systematisation and organisation, which is a positive step in strengthening its administrative capacity. The APC cannot impose administrative fines on companies breaching competition law, while the European Commission and many competition authorities of EU Member States have this power. In November 2022, the vacancy of APC director was finally filled: the APC director was appointed for a period of 5 years. This completes the composition of the APC Council and should significantly facilitate the implementation of APC's activities.

In the area of **enforcement capacity**, the APC's administrative and financial capacity need to be strengthened. Only 13 out of the 18 planned posts in the area of antitrust and mergers are occupied. The APC was further strengthened with the appointment of eight additional staff members.

As regards **implementation**, concerning prohibited agreements, the APC issued one decision while another proceeding is ongoing. Furthermore, seven procedures for individual exemption from prohibited agreements were initiated at the request of the parties, six were resolved (one from the previous period and five from the current period), while two procedures are ongoing. Out of five cases initiated before the Court, one case was resolved, while the other four cases are ongoing. The APC submitted a request to initiate proceedings for infringements before the Court, which are ongoing.

In the reporting period, the APC issued 52 decisions concerning concentration. During the reporting period, one request to investigate a possible infringement of competition law was submitted to the APC and is ongoing.

### State aid

The **legislative framework** is largely in line with the EU *acquis* (Articles 107 and 108 TFEU). The 2018 Law on State aid control sets out the notion of aid as well as procedural State aid rules. Six related implementing acts were adopted during the reporting period. These set out, among other things, instructions on how to calculate the equivalent of the subsidy and the return interest rate. However, it is essential to further amend the Law on State aid control and related implementing acts to ensure full compliance with EU State aid rules.

As regards the **institutional framework**, the APC is responsible for enforcing the legal framework.

The **enforcement capacity** of the APC Council needs further strengthening. It has seven employees in the field of State aid, the same number as in 2021. To strengthen its expertise and enforcement capacity, the APC should make significant efforts to recruit new staff and build related capacity. All concerned institutions should help strengthen the position of the APC and its Council to ensure an independent and functioning system of State aid control. It is imperative that grantors of potential State aid notify and consult with the APC *ex ante* with sufficient notification. The APC should be perceived as a partner by aid grantors – advising on State aid rules in specific cases.

In the area of **implementation**, in 2022, the APC Council adopted 45 State aid decisions.

Concerning State aid to Montenegro Airlines, in August 2022, the APC issued a third decision ordering further recovery of illegal State aid. The bankruptcy case of Montenegro Airlines is pending at the Commercial Court. The APC also initiated examination procedure on possible State aid granted to Air Montenegro between 2012-2017. In the cases of the Bar-Boljare highway and its operations, UNIPROM KAP and the Niksic steel mill, the APC started pre-examination activities. The APC also started examining investigations on possible State aid granted to the Plantaže company, which was disbursed without proper notification to the APC. In the reporting period, two recovery decisions were adopted and appealed against before the Administrative Court. To prove a solid enforcement track record, the APC needs to have timely access to all necessary information to provide opinions and take binding decisions. The APC has not yet published any opinions or decisions concerning possible State aid cases in the energy sector. The APC should continue monitoring the implementation of State aid rules in large projects carried out in cooperation with third countries.

Montenegro made progress towards ensuring transparency on State aid decisions, with the APC publishing decisions and opinions, including its annual reports, on its website in a timely manner. Additionally, the APC created a general register of State aid cases, which can also help increase transparency, along with two specialised registers (related to COVID-19 and *de minimis* aid). The APC should continue to advocate for further strengthening of awareness of State aid rules among aid grantors at both central and local levels.

### Liberalisation

The Law on the protection of competition and the Law on State aid control apply to public undertakings and undertakings with special or exclusive rights. This does not apply to cases where the laws would obstruct the performance of the particular tasks of services of general economic interest (SGEI) assigned to such undertakings, in line with Article 106 TFEU and with the Stabilisation and Association Agreement. There is no evidence of the existence of commercial monopolies within the meaning of Article 37 TFEU.

## **Chapter 9: Financial services**

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

Montenegro is **moderately prepared** in the area of financial services. Overall, **some progress** was achieved, with good progress on bank and financial conglomerates, some progress on insurance; and limited progress on capital markets. Last year's recommendations remain valid.

In the coming year, Montenegro should:

- complete legislative alignment with the latest revisions of the capital requirements and bank recovery and resolution legislation;
- continue to work on alignment with the insurance legislation,
- significantly advance work on the draft Law on investment funds, the draft Law on alternative investment funds and the draft Law on pension funds, aligned with EU legislation.

On **banks and financial conglomerates**, legislation is largely aligned with the EU *acquis*. Alignment with the latest bank recovery and resolution legislation continued, including by drafting amendments to the Law on resolution of credit institutions, and by preparing the

2023 resolution plans for credit institutions. In July 2022, banks made their first annual contributions to the Resolution Fund. In December 2022, the Central Bank of Montenegro adopted several implementing acts in the area of banking, including on capital adequacy of credit institutions. Work was also initiated on a draft Law regulating the area of supplementary supervision of financial conglomerates.

In the area of **insurance and occupational pensions**, in the second half of 2022, the Insurance Supervision Agency (ISA) adopted several implementing acts to the current Law on insurance. Work continued on a new draft Law on insurance, aligned with the latest EU rules, in particular Solvency II Directive. In 2023, the ISA adopted implementing acts on the internal organisation and governance structures of insurance companies and on pre-contractual information, bringing these aspects closer to EU standards.

**Regarding financial market infrastructure**, there were no relevant developments. Central Securities Depository and Clearing Company, supervised by the Capital Markets Authority, is the depository of securities, owner, and operator of the securities settlement system.

**On securities markets and investment services**, in the second half of 2022, public consultations were held on the draft Law on alternative investment funds, the draft Law on open-ended investment funds with public offering, and the draft Law on pension funds. Work on preparing the final drafts of these laws continued.

In the area of **sustainable and digital finance**, Montenegro's National Strategy for Sustainable Development contains a chapter on financing sustainable development. In March 2022, the Central Bank of Montenegro adopted a policy to reduce the adverse climate change impact on the financial system and on greening the financial system.

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

*EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare and in preparing for and responding to cross-border health threats, including communicable diseases.*

Montenegro is **moderately prepared** in the area of consumer and health protection. Overall, **limited progress** was made on last year's recommendations. Some alignment to the EU *acquis* took place in the field of health protection, notably the Law on health care was adopted. Also, the construction of a mental health clinic started, and the capacity of the healthcare institutions to fight against COVID-19 was strengthened by targeted financial allocations to healthcare institutions. The composition of the Consumer Protection Council, an advisory body to the government, was changed to include representatives of all stakeholders in the area of consumer protection. There is a need to strengthen administrative capacity and ensure full implementation of the EU *acquis*. Last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- complete the alignment of national legislation with the EU consumer protection *acquis* and health protection *acquis* on substances of human origin, tobacco control and patients' rights in cross-border healthcare, as set out in Montenegro's accession programme;
- strengthen the role and effectiveness of the Council for Consumer Protection;

→ adopt a new strategy for the development of the healthcare system and start its implementation.

### Consumer protection

Regarding the **legislative framework for consumer protection**, several pieces of legislation are pending adoption: a law on consumer protection to align national legislation with the EU *acquis* on digital content, a law on collective actions to align national legislation with the EU *acquis* on representative actions for protection of collective interests of consumers, a law on consumer credits to align national legislation with the relevant EU *acquis*, a law on tourism and catering to align national legislation with the EU *acquis* on package travel and linked travel arrangements, and amendments to the Law on market surveillance to fully align national legislation with the latest EU *acquis* in this area. Further alignment should be ensured with the EU consumer protection cooperation regulation. Some measures were taken to implement the 2022 and 2023 action plans under the national **consumer protection programme** (2022–2024). These included the appointment in October 2022 of members of the new Council for Consumer Protection, which met twice. During the reporting period, a consumer protection NGO won a collective lawsuit against a bank; the court found that the bank violated the Law on consumer credit and the collective rights of consumers.

An **EU peer-review** visit concerning consumer protection concluded that Montenegro should ensure timely alignment of its national legislation with and implementation of relevant EU legislation, speeding up legislative processes and taking a more proactive approach in consultation processes. It also recommended that Montenegro: (i) strengthen the **administrative capacity** of its market surveillance authorities, in line with its relevant strategy and internal organisational structure; and (ii) develop relevant education and training programmes and allocate additional financial resources to them. Other recommendations included strengthening support to the non-governmental sector and out-of-court dispute resolution mechanisms and strengthening the engagement of local government in consumer protection.

As concerns the **protection of the economic interests of consumers**, the Administration of Inspection Affairs carried out 33 259 inspections, identifying 4 876 irregularities leading to administrative and punitive measures.

Montenegro's legal framework on **product safety** is mostly aligned with the EU *acquis*. During the reporting period, 3 487 inspections were conducted, of which 3 114 inspections in the area of proactive surveillance and 373 in the area of reactive surveillance. Based on these inspections, 1 284 types of dangerous and non-compliant products were found, amounting to 37 504 items. This led to 536 dangerous and non-compliant products (15 285 items) being withdrawn from the market. Temporary circulation bans for products not posing a serious risk and for non-compliant products (until the removal of identified non-compliances) were imposed on 761 types of products (22 627 items).

### Public health

National legislation on **public health** is partly aligned with the EU *acquis*. Implementing legislation in the field of medically assisted reproduction was adopted to further align the national legislation with the EU *acquis* on substances of human origin. In 2022, the state budget for the health sector was EUR 420 million, an increase compared to 2021. The adoption of the 2023-2027 strategy for the development of the healthcare system is pending, while the Law on health care was adopted.

On **anti-microbial resistance**, awareness-raising and education activities were carried out by

the national authorities, the World Health Organization and other institutions, including on bacterial resistance to antibiotics, rational use of antibiotics and strengthening the diagnostic capacity in hospitals. However, further work on this remains necessary.

On **tobacco control**, national legislation on smoking in public places and the sale of tobacco products to minors is still not sufficiently enforced. In May 2023, the government adopted the strategic document "Program for the control of the use of tobacco products 2023-2025 with the Action Plan 2023-2025".

The government's 2022-2024 programme on **alcohol-related harm reduction** and its related action plan are being implemented. However, there is no overview of the situation due to lack of data collection on harmful consequences of alcohol consumption. Regarding **drug abuse prevention and harm reduction**, civil society organisations continued their prevention action and services, including some financed by the government. The public health institute organised educational activities on drug addiction for 56 service providers from 13 health institutions.

In February 2023, the Ministry of Health published a report on the implementation of the 2021-2023 action plan for the **mental health** strategy for 2019-2023, showing that only 16% of planned measures have been implemented. In July 2022, the construction of a mental health clinic started, still in process, with financial support from the government. When completed, it will have Montenegro's first child and adolescent psychiatry department.

On **blood, tissues, cells and organs**, the national blood transfusion institute continued to ensure that enough safe blood is available for people's needs. In the area of blood, Montenegro's legislation is almost fully aligned to the EU *acquis*. However, the system for reporting on adverse effects and reactions is not yet in place.

Regarding **patients' rights in cross-border healthcare**, Montenegro has yet to adopt implementing legislation on conditions, means and procedures for administering cross-border healthcare.

On **communicable diseases**, the Ministry of Health distributed more than EUR 5 million for the fight against COVID-19 to seven healthcare institutions to improve their capacity and raise the level of their healthcare services. Regarding HIV/AIDS, the Institute for Education organised training sessions for teachers and educators, while civil society organisations continued their services for key population groups. Between September and December 2022, Montenegro organised its first human papillomavirus (HPV) vaccination programme. It resulted in the vaccination of nine-year old girls. According to UNICEF, the coverage for the first vaccination dose against measles, mumps and rubella fell from 90% in 2010 to 18% in 2022. The situation is mostly due to focusing resources on COVID-19 vaccination and reluctance of parents to bring their children to health centres during the pandemic. In February 2023, the government adopted a programme for mandatory immunisation of population against certain communicable diseases and related implementing legislation.

Implementation of the programme for the control and prevention of **non-communicable diseases** continued.

In the area of **health inequalities**, vulnerable groups have access to healthcare services, with the exception of persons without regulated legal status, including Roma and Egyptians not having proper legal status. People, in particular the elderly, living in remote rural areas face difficulties to reach health care facilities. Also, the lack of accessible healthcare facilities, appropriate equipment and special healthcare services remains a concern for people with disabilities.

According to a public survey conducted by an NGO, almost 60% of people living in Montenegro have seen **corruption** in the healthcare sector. They mostly refer to irregular payments for health treatments, often voluntarily done by patients.

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

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

Some progress was achieved in different areas e.g. signature of the Association Agreement concerning the Digital Europe Programme, tax legislation and the automatic exchange of bank account information; as well as on further implementation of the revised industrial policy. There was slow progress on preparations for accession to the Convention on common transit procedure and implementation of the action plan for alignment with the EU *acquis* in the area of economic and monetary policies.

In the coming period, Montenegro is invited to step up legislative alignment in the electronic communications, information technologies and audiovisual media sectors, and ensure the media sector's independence; make further progress on removing VAT and other exemptions that are not aligned to the EU *acquis*; ensure practical cooperation amongst relevant public authorities and develop appropriate capacity to produce government finance statistics and fiscal notifications; monitor the implementation labour law, in addition to focusing on the employment activation measures in addition to the further development of the Youth Guarantee; continuing efforts on improving safety at work particularly regarding labour inspection; evaluate the results of its 2019-2023 industrial policy strategy and prepare a new industrial policy, in cooperation with relevant stakeholders; continue to support financially research and innovation especially regarding smart specialisation and the Green and Digital Agendas; build on the quality and accessibility of education and training and plan for further education reform; and finalise all preparations for the accession to the Convention on a common transit procedure.

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

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

Montenegro remains **moderately prepared** in the area of digital transformation and media. There was **limited progress**, mainly directed at reducing the impact and addressing the consequences of the August 2022 cyberattack by making the government's IT infrastructure once again operational. Montenegro joined the Digital Europe Programme in June 2023. However, last year's recommendations have not been met and remain valid.

In the coming year, Montenegro should in particular:

- align national legislation with the EU *acquis* on electronic communications and information technologies and on audiovisual media, ensuring the operational independence of media regulators and the public service broadcaster;
- grant the Agency for Electronic Media (AEM) powers to impose a complete set of

measures, including warnings, fines, suspensions and revocation of licences ensuring proportionality and effectiveness;

→ achieve a track record on enforcement of the EU *acquis* on electronic communications, information society services, open data and in particular audiovisual media services, including as regards regulatory independence.

Concerning **electronic communications and information technologies**, Montenegro needs to intensify efforts to complete the alignment of its national legislation with the *acquis* on electronic communications and information technologies. Montenegro has not yet aligned its national legislation with the European Electronic Communication Code, the Toolbox for 5G Cybersecurity, the e-Privacy Directive and the eIDAS Regulation on digital identity and trust services.

In November 2022, the Ministry of Economic Development and Tourism set up a working group to draft the Law on electronic communications. However, in April 2023, in a separate procedure, the Parliament adopted amendments to the Law on electronic communications with a view to dismiss existing members of the EKIP Council and Executive Director before the end of their mandate. These Amendments were proposed by a number of Members of Parliament, without a public debate and despite a negative opinion from the Government and the Agency for Electronic Communications and Postal Services (EKIP). Such developments seriously risk intruding on the independence of the Agency.

Work continued on the draft strategy for the development of 5G mobile communication networks for 2023-2027. Broadband infrastructure development progressed with EU support. According to Montenegrin statistical information, the share of households with access to fixed high-speed internet (at least 100 Mb/s) and the share of the population with access to mobile high-speed internet both increased in 2022 compared to 2021, from 76.7% to 78.5% and from 97.2% to 97.5%, respectively. The total number of fixed broadband internet connections increased by 4.4% compared to 2021. In October 2022, the Agency for Electronic Communication launched an auction for the spectrum in the 700 MHz, 3.6 GHz and 26 GHz bands and awarded three existing telecom operators with frequency resources in the 700 MHz and 3.6 GHz bands.

Regarding **digital transformation**, the Ministry of Public Administration (MPA) should intensify efforts and accelerate alignment of the national legislation with the Network and Information Security Directive (NIS 2) and the Open Data directive. Alignment with the Digital Services Acts and Digital Markets Act needs to be stepped up, to provide predictability for the business community. In December 2022, the MPA set up the Digital Academy – an online platform for education and building digital and leadership skills of public servants, students, and vulnerable groups. The signature of the Association Agreement to the Digital Europe Programme between the European Commission and Montenegro took place in June 2023 during the meeting of the 2<sup>nd</sup> Regulatory Dialogue for the Western Balkans. The association agreement goes into retroactive effect from 1 January 2023. It would be highly advisable to seek alignment with the new legislation in place (namely, the Interoperable Europe Act) and with the services related to the Interoperable Europe Academy. A massive cyber-attack at the end of August 2022 disrupted the work of public services, businesses and people alike. The official gov.me website and all official email accounts of civil servants at state level were not operational for several months. In response, in December 2022, the MPA set up a new Directorate for Information Security known as the government CIRT (Computer Incident Response Team). At the end of 2022, the number of e-government services was 403, down from 410 in 2021, due to internal reorganizing and

preventive actions related to the cyber-attack. A small number of new services came into operation, including applications for enrolment in preschool institutions and student dormitories.

The Ministry of Culture and Media is responsible for audiovisual policy. In the area of **audiovisual policy**, the Regulatory Agency for Electronic Media (AEM) continued to exercise its mandate in a professional manner. In September 2022, the AEM suspended the broadcasting of the morning TV show of the Belgrade-based Pink M in Montenegro for a period of 6 months, for inciting hatred, intolerance and discrimination against ethnic Montenegrins. The AEM still lacks the authority and measures to effectively monitor and penalise broadcasters and rules, and its operational capacity has yet to be strengthened.

The Law on audiovisual media services, the amendments to the Law on media, and the Law on the national public broadcaster have not been adopted yet. Montenegro urgently needs to fully align its legislation with the 2018 revision of the EU Audiovisual Media Services Directive (AVMSD) and with the recommendations and legal opinions of the Council of Europe and the Organization for Security and Co-operation in Europe within the required timeline to ensure the country's continued participation in all aspects of the Creative Europe Programme. The new rulebook on the distribution of funds from the Media Pluralism Fund entered into force in January 2023. In October 2023, Montenegro adopted its media strategy for 2023-2027 together with an accompanying action plan 2023-2024.

## Chapter 16: Taxation

*EU rules on taxation cover value-added tax, excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.*

Montenegro is **moderately prepared** in the area of taxation. Overall, **limited progress** was made on last year's recommendations. Progress was made on tax legislation and in preparing the automatic exchange of bank account information.

In the coming year, Montenegro should in particular:

- further remove value added tax (VAT) and other tax exemptions that are not aligned with the EU *acquis*;
- ensure adequate administrative capacity and the required infrastructure in the central and local tax offices to implement and enforce tax legislation and to effectively collect taxes;
- strengthen the technical capacity and infrastructure needed for the application of the EU IT systems, such as Excise Movement Control System (EMCS) and VAT Information Exchange System (VIES), and the IT systems necessary for tax cooperation and exchange of information in the field of direct taxation.

In the area of **indirect taxation**, on 16 December 2022, the Parliament adopted amendments to the Law on value added tax to further harmonise it with the *acquis* on the common VAT system. On 28 February 2023, the Parliament adopted amendments to the Law on excise duties notably to gradually increase the specific part of the excise duty on cigarettes.

In the area of **direct taxation**, in December 2022, the Law on personal income tax was amended to widen the scope of taxable income and to create a normative environment conducive to attracting 'digital nomads'. To calculate interest on loans, credits and other financial instruments, implementing legislation requires the application of the 'arm's length' principle as of 2023. As concerns the rules on transfer prices of transactions, adopted implementing legislation is based on recommendations of the Organization for Economic Co-

operation and Development (OECD).

International assessment of the Revenue and Customs Administration (RCA) of Montenegro is ongoing to test the country's readiness to start the envisaged **automatic exchange of financial account information** in the OECD framework on base erosion and profit shifting, scheduled for September 2023. Montenegro adopted legislation requiring financial institutions to report such accounts.

On **operational capacity and computerisation**, some activities were carried out to address the issues highlighted by the TADAT analysis, notably to improve the programme of inspection supervision and risk assessment for VAT refund requests. Among the issues that are yet to be addressed are the structuring of the tax debt and the implementation of a modern approach to risk management in compliance with tax regulations.

The RCA still needs to adopt a **human resources** strategy and a personnel and training plan.

### Chapter 17: Economic and monetary policy

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

Montenegro is **moderately prepared** in the area of economic and monetary policy. **Limited progress** was achieved in implementing last year's recommendations, mainly on publishing quarterly statistics on international investment position data. The government adopted the 2023-2025 Economic Reform Programme (ERP) in time. Core reforms of the ERP focus on the identified key challenges to the economy, but macrofiscal plans do not include a medium-term fiscal consolidation strategy. The implementation of the reforms remains weak and last year's recommendations remain valid.

In the coming year, Montenegro should:

- continue to implement the revised action plan for alignment with the EU *acquis* under this chapter;
- ensure that the Ministry of Finance and Social Welfare, the Central Bank of Montenegro and Monstat cooperate, coordinate among themselves and have appropriate capacity to produce government finance statistics and fiscal notifications in accordance with the ESA 2010 methodology.

Montenegro does not have standard **monetary policy** tools at its disposal, as it uses the euro as legal tender, leaving fiscal policy as the main macroeconomic policy instrument. Montenegro's use of the euro is based on a decision that the authorities made under exceptional circumstances and is fully distinct from membership of the euro area.

In June 2023, proposals for amendments to the Law on the Central Bank of Montenegro (CBM), prepared by the CBM and aimed at further alignment of CBM operations with the EU *acquis*, were adopted by the government. In a fully separate procedure, in April 2023, the Montenegrin Parliament adopted its own amendment to the Law, which assigns to the Parliament the right to appoint the CBM governor and members of the CBM Council, based on a public competition. The amendment also shortens the remaining term of office of the governor and incumbent CBM Council members. However, the president of Montenegro refused to sign the new version of the Law, voted by the Parliament, while the draft prepared by the CBM and adopted by the government is yet to be transmitted to the parliament.

In the area of **economic policy**, there were no significant developments in terms of alignment

with Council Directive 2011/85/EU on requirements for budgetary frameworks of the Member States, or introduction of European System of Accounts (ESA 2010) standards. Delays in introducing accrual accounting and producing government finance statistics based on ESA 2010 standards remain a key obstacle in this chapter. Efforts should be made to ensure practical cooperation between the Ministry of Finance, Central Bank of Montenegro and Monstat, and development of appropriate capacity to produce government finance statistics and fiscal notifications, in accordance with the EU *acquis*.

In February 2023, the Parliament adopted amendments to the Law on budget and fiscal responsibility that make it possible to set up an independent Fiscal Council. A public call for three members of the Council was launched in April 2023. However, the president of Montenegro did not sign the amended law and the selection procedure remains stalled.

The government adopted and submitted its 2023-2025 **Economic Reform Programme** on 25 January 2023. The programme integrates macroeconomic, fiscal and structural reform plans into a single strategic document. Core reforms under the ERP continue from the previous programme and focus on the identified key challenges to the economy. However, macro-fiscal plans do not include a medium-term fiscal consolidation strategy. The limited implementation of 2022 policy guidance jointly agreed with the EU demonstrates the importance of strengthening the government's commitment to carrying out structural reforms.

## **Chapter 19: Social policy and employment**

*EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion and social protection, and social dialogue at EU level.*

Montenegro has **some level of preparation** in the area of social policy and employment. **Some progress** was made during the reporting period on social protection through a significant increase in the expenditure on social benefit.

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

- strengthen the Employment Agency to enable it to efficiently play its role as a modern public employment service and to prepare it for the implementation of the Youth Guarantee and the future use of the European Social Fund (ESF);
- continue efforts to reform the provision of active labour market policy measures with an emphasis on their labour market relevance, including work-based learning, and establish a continuous monitoring mechanism that will enable evidence-based active labour market policy design;
- based on the Roadmap of reforms on social assistance and social and child protection services, establish a clear timeline and financial planning for the reform of the social and child protection system and start implementing the reforms.

During the reporting period, the Ministry of Labour and Social Welfare faced institutional and technical drawbacks, due to its previous repositioning within the government system and the August 2022 cyberattack. The reconstituted Ministry did not manage to adopt all relevant strategic documents in time. The Chapter 19 Working Group was set up again, but after the constitutive meeting on 27 March 2023, it did not meet again in the reporting period.

From 6 June 2022 until 31 March 2023, the Labour Inspection made 5 588 inspection visits in the area of labour relations and employment, and found 2 132 irregularities, of which 944 related to labour relations and 1 188 related to occupational safety and health. The Labour

Inspection detected 1 024 illegal employment cases (concerning 516 foreigners and 508 Montenegrin nationals); on the inspectors' order, 115 people (34 foreigners and 81 Montenegrin nationals) entered employment, in line with the law.

In 2022, the Labour Inspection detected 42 cases of non-formal employment of children aged between 15 and 18. In these cases, inspectors imposed fines on employers, warned them against irregularities, and requested documents (medical certificates and parental approval certificates) necessary for legal employment. The Labour Inspection did not discover any cases of severe forms of child labour in any economic activity.

Concerning **health and safety at work**, in December 2022 the government adopted the national strategy for occupational safety and health (2022-2027) and its 2023 action plan. There was no progress in setting up the occupational safety and health fund envisaged under the previous sector strategies (for 2010-2014 and for 2016-2020). During the reporting period, inspectors carried out 1 520 inspections in the field of occupational safety and health, including 14 investigations of work accidents (3 fatal accidents, 10 serious accidents and 1 collective accident). The Labour Inspection remained understaffed, with only 11 inspectors in charge of occupational safety and health.

In December 2022 social partners signed a new general collective bargaining agreement. Overall, **social dialogue** remains weak. The involvement of the tripartite Social Council in relevant policymaking is low. During the reporting period, the tripartite Social Council held only two sessions, and its Presidency three sessions.

In the area of **employment policy**, on 22 December 2022, the government adopted the 2023 action plan for employment. Monitoring the implementation of the action plan for employment and the national strategy for employment remains a challenge due to the lack of real-time and accurately disaggregated data. On 22 December 2022, the government adopted the action plan for the interoperability of selected information systems and databases that have a role in governing Montenegro's labour market. The plan sets out measures and activities required to bring about interoperability of the Employment Agency database with the tax administration databases. Appropriate exchange is also required with social welfare centres to enable high-quality monitoring of unemployed people. Several, mostly EU-funded, initiatives and activities started to strengthen the technical and human capacity of the Employment Agency. The local branches of the Agency remain understaffed. Multiple personnel and management changes and amendments to the Systematisation Act slowed down the reform process of the Employment Agency.

The Working Group for the Youth Guarantee Programme is working with experts from the International Labour Organization and the European Training Foundation on improving the draft Youth Guarantee implementation plan. The share of youth aged 15-29 in total registered unemployment in May 2023 was 19.92% (8 392 people, of whom 5 162 are women), compared to 23.83% (10 132 and 13 679 respectively) in 2021. The rate of NEETs among young people in 2022 decreased to 23.2%, compared to 26.5% in 2021.

In 2022, the labour market partially recovered compared to 2021. The overall activity rate grew from 54.4% in Q4 2021 to 59.9% in Q4 2022. The employment rate was 51.2% in Q4 2022, compared with 46.1% in Q4 2021. The unemployment rate was 14.5% in Q4 2022, compared with 15.4% in Q4 2021. The share of long-term unemployment in total registered unemployment was 57.49% in 2022, a large drop compared to 2021 (65.6% to 63.7% between Q1 and Q4 2021). The youth employment rate grew from 36.3% in Q1 2022 to 39.9% in Q4 2022, which is 5.3% higher than in Q4 2021. The share of women in total registered unemployment at the end of December 2022 was 57.64%, a reduction compared to

the same period in 2021, when this share amounted to 60.16%.

As regards labour inspection, an appropriate legislative framework involving sufficient resources and modernised planning of inspection activities and addressing issues such as gender that disproportionately impact on women, is not yet in place. A substantial turnover of staff is currently ongoing with the retirement of a significant number of experienced inspectors, increasing the need for training. No progress was made regarding legislative and non-legislative measures focused on work-life balance.

Regarding activities related to preparations for the **European Social Fund (ESF)**, Montenegro needs to decide which institutions will be the contracting and management authorities for setting up the sectoral operational programme on employment and social inclusion.

The **social protection and inclusion** sector continues to face human resource and capacity limitations. In light of the recent changes to the legal and strategic framework, taxes and social benefits for children, the overall social policy and employment system needs thorough assessment and reforms to effectively respond to the needs of most at-risk groups and labour market demands. The Social Protection Law and the social protection strategy have yet to be adopted. The Ministry of Labour and Social Welfare issued 36 licences to social and child protection services. However, much more involvement of, support to and cooperation with civil society is needed to achieve sustainable and effective results in the social sector, both in planning and monitoring of social policies and for implementing them through social services, including at the local level. In 2022, Montenegro adopted two amendments to the Child Protection Law, extending the right to child allowance to cover children up to 18 years old in an attempt to address the very high rate of children at risk of poverty and social exclusion (45.5% of children under the age of 18 in 2021). Centres for social work continued to be understaffed while their scope of work increased as they need to manage the new entitlements. Children from Roma and Egyptian communities are heavily engaged in child begging. The Institute of Social and Child Protection lacks resources and its role in the overall social protection system should be clarified. During the reporting period, the implementation of the integrated Social Welfare Information System (SWIS) enabled timely enforcement of all legislative changes. According to the MONSTAT Survey of Income and Living Conditions (data for December 2021), the national ‘at-risk-of-poverty’ or social exclusion rate (AROPE) was 38.9% (EU rate for 2021 was 21.7% of the population).

There was no progress on **deinstitutionalisation** and the transition to community and family-based services, especially regarding children. The deinstitutionalisation strategy, initially planned for Q4 2022, has yet to be adopted. Social welfare centres still do not have sufficient capacity to support the Ministry of Labour and Social Welfare in implementing the transition from institutional service provision to community-based care.

In the area of **non-discrimination** in employment and social policy, the Law on a unified disability determination system has not yet been adopted, although the draft law and the public consultation were completed in 2022. The Law on professional rehabilitation and employment of persons with disabilities, planned to be adopted in 2023 was also postponed. Civil society organisations are still not sufficiently included in policymaking processes. The number of people with disabilities included in the unemployment register at the end of 2022 was 9 864, of whom 6 755 or 61.78% were women (10 970 in 2020).

On **equality between women and men in employment and social policy**, Montenegro’s Gender equality index value in 2019 was 55 (out of maximum 100 points), which is lower than the EU average of 67.4. According to MONSTAT the difference between male and

female activity rates (population aged 20-64) is even bigger (79.7% for men and 66.8% for women). According to the World Bank, the share of women in top management is only 15%, and in business ownership 24%. In July 2022, the government adopted the report on the implementation of the 2021 action plan for implementing the strategy for development of women's entrepreneurship for 2021-2024 to respond to the lower share of women in entrepreneurship as opposed to men. The authorities and other institutions set up several programmes and took active labour market measures to increase the overall employment rates of women and young people. However, social support services for vulnerable groups remain scarce and unsustainable. They are mostly organised by civil society organisations, without continuous support from the local or national level.

## Chapter 20: Enterprise and industrial policy

*EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs)*

Montenegro is **in between moderate and a good level of preparation** in the area of enterprise and industrial policy. In 2022, **some progress** was made in implementing enterprise and industrial policy. Further action by the government should ensure consistency of various national strategies and programmes in this area and the necessary inter-ministerial cooperation.

In the coming year, Montenegro should:

- evaluate the results of its 2019-2023 industrial policy strategy and prepare and adopt a new industrial policy, in cooperation with relevant stakeholders;
- align with the EU Late Payments Directive by adopting amendments to the Law on deadlines for settlement of monetary obligations;
- ensure continuous coordination of industrial policy with other key national strategies.

In the area of **enterprise and industrial policy principles**, in December 2022, the government adopted the national circular transition strategy for the period until 2030, with an action plan for 2023 and 2024. The strategy identifies four priority sectors – agriculture, forestry, construction and tourism – as well as horizontal focus areas necessary for circular transformation in key economic sectors. In June 2023, the government adopted a new 2023-2026 strategy for the development of micro, small and medium enterprises.

The government suspended work on setting up the Credit Guarantee Fund, intended to facilitate access to credit for micro, small and medium enterprises. Another concept to provide credit is under analysis. Reforms in the area of state-owned enterprises were downscaled by the government, despite commitments agreed in the 2022 Joint Conclusions of the Economic and Financial Dialogue. Future reform plans still need to be re-defined. Montenegro has yet to adopt the planned amendments to the Law on deadlines for settlement of monetary obligations, which aim to align the Law with the EU *acquis* on combating late payments.

In the area of **enterprise and industrial policy instruments**, the government implemented eight financial and non-financial programmes to develop entrepreneurship and the private sector under the overarching 2022 programme for improving the competitiveness of the economy. A total of 353 companies received support under this EUR 4 million programme. In March 2023, the government adopted the 2023 programme for improving the competitiveness of the economy, with nine programme lines, worth EUR 3 million, targeting

in particular support for young entrepreneurs and women. The single online portal for SME support (Single Access Point) was disabled due to the August 2022 cyber-attacks, and its update is ongoing.

In 2022, the Investment and Development Fund of Montenegro (IDF) provided financing worth EUR 185 million to Montenegrin enterprises, and an additional EUR 66 million in the first 5 months of 2023. In July 2022, the IDF signed a EUR 50 million loan agreement with the EIB, a second tranche of the previously approved loan of EUR 150 million. This loan aims to support climate-friendly and energy-efficient investment by local SMEs.

In April 2023, the government signed the Association Agreement for Montenegro's participation in the EU's Single Market Programme. Montenegro will participate in three pillars of the programme (Improving the Internal Market, SMEs, and Consumers).

In the area of **sectoral** policies, the report on the execution of the 2022 action plan for the implementation of industrial policy was adopted in March 2023. Out of the planned EUR 215.4 million, EUR 166.6 million was invested. In early 2023, the government launched the evaluation of the 2019-2023 industrial policy strategy.

The government decided to finance the Innovation Fund using part of the receipts from the controversial Economic Citizenship Programme without carrying out any due diligence on the origin of the funds. The Innovation Fund administered two programme lines – the collaborative grants programme and the innovation voucher scheme – to encourage cooperation between the private sector and research institutions in developing innovative projects and products. Following this support, the private sector investment in innovation projects through various programme lines exceeded EUR 1 million in 2022 (*see also Chapter 25: Science and research*).

In January 2023, to ensure consistency of the industrial policy with other national strategies and programmes, a coordination body was set up at management level in the Ministry of Economic Development and Tourism. The first test of the strengthened inter-ministerial cooperation would be the implementation of a newly developed programme of financial support to companies that wish to improve their energy efficiency using innovative technologies and renewable energy, which should start in 2023.

## **Chapter 25: Science and research**

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

Montenegro has a **good level of preparation** in this sector. **Good progress** was made on each of the 2022 recommendations, by continuing the implementation of the smart specialisation strategy and by increasing participation in the Horizon Europe programme. In 2023, the government budget for science and innovation further increased. Two of last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- continue to implement the smart specialisation strategy;
- continue to strengthen academia-business cooperation, and further support knowledge transfer between them, also to deliver on green deal priorities;
- put in place the new strategy for scientific research activities.

In the area of **research and innovation policy**, Montenegro adopted two implementing acts that aim to fully implement the Law on scientific research activities. These acts laid down: (i) the conditions and more detailed criteria for awards for scientific achievements as well as award amounts; and (ii) further conditions for licensing scientific research institutions. Montenegro has yet to adopt the new strategy for scientific research activities, which will list instruments to increase the number of researchers.

The latest available statistics, from 2019, indicated that research and development funding stood at 0.36% of GDP in 2019 (0.50% in 2018), with an investment share of 0.12% provided by the private sector. For 2023, the government budget for science and innovation amounted to EUR 4.08 million. This increased budget supports the country's economic recovery, while helping to address the issue of brain drain of researchers and young people.

Montenegro continues to successfully implement the smart specialisation strategy. In June 2022, the government established a new composition of the Council for Innovation and Smart Specialisation, presided by the Minister of Science and Technological Development.

In December 2022, the Council adopted the Information on the innovation programmes of the Innovation Fund of Montenegro for 2023, based on which the Innovation Fund prepared the 2023 work plan, adopted by the government in April 2023. The Innovation Fund published a call for proposals under its collaborative grants programme with a budget of EUR 670 000. Seven project proposals were accepted for financing. The Innovation Fund also published a call for proposals under its Innovation Vouchers Programme and six additional programme lines have been launched in the period May-June 2023 (value EUR 1.65 million). The Call for co-financing national scientific research projects with total funds amounting to EUR 2.3 million was published in May 2023. Montenegro has yet to adopt the Programme for Encouraging Innovation in the Function of Energy Efficiency in Industry.

The cooperation with the European Innovation Council is good: the Collaborative Grants for Innovation scheme, managed by the Innovation Fund of Montenegro, was officially certified for the Plug-In scheme to the European Innovation Council Accelerator. The Law on incentive measures for research and innovation promoted the investment of EUR 1 934 000 in 19 start-ups. The cooperation with the European Institute of Innovation and Technology (EIT) is also good.

In the area of **framework programmes**, in Montenegro's first two years as a member of the Horizon Europe programme, Montenegrin participants gained already EUR 3 million (compared with EUR 4.62 million received over the seven years of Horizon 2020). The Ministry of Science and Technological Development provided EUR 230 000 to support co-financing of innovation activities under several strands of the programme, among other for covering participation in EUREKA.

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

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

Montenegro has a **good level of preparation** in this area. **Some progress** was made during the reporting period although certain steps were taken towards achieving more inclusive education. However, increased efforts are needed to progress on other outstanding recommendations. Therefore, last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- adopt a budgeted plan including an economic impact analysis for wide-ranging education reforms, also addressing inclusive education, and improve access to quality education at all education levels;
- speed up the implementation of the new strategy on early and preschool education for 2021-2025 to improve preschool enrolment for all children;
- finalise and adopt the 2022-2023 national vocational education and training (VET) implementation plan under the VET strategy for 2020-2024, and put in place the mechanism to evaluate practical learning at VET and higher education levels;

In the area of **education and training**, in the period July 2022 till end of 2022, Montenegro adopted amendments to the Law on primary education, to the general Law on education, to the Law on higher education, and to the Law on professional training for persons with acquired higher education. On 4 April 2023, Montenegro adopted the Law on the confirmation of the Agreement on the Recognition of Qualifications in the Field of Higher Education in the Western Balkans.

In 2022 spending on education was EUR 231.8 million (4% of GDP), a slight decrease from 2021 (4.3%). The pre-school enrolment rate stood at 52.99% (male: 53.47% and female: 52.46%) in 2021/2022. In 2022/2023 the enrolment rate was 49.04% (male: 49.74% and female 48.28%).

Montenegro participates in other international assessments, by conducting a Trends in International Mathematics and Science Study (TIMSS), a study on progress in international reading literacy (PIRLS) as well as piloting a Teaching and Learning International Survey (TALIS). Montenegro is not participating in the ICILS (International Computer and Information Literacy Study).

In July 2022, Montenegro adopted quality standards for the creation of digital content as part of its digital strategy. The objectives of the 2022-2027 Montenegro Education System Digitalisation Strategy is to align with the EU Digital Education Action Plan 2021-2027. Efforts towards effective, coherent and inclusive digital transformation of the Montenegrin education and training systems, including the capacity of the systems to develop digital skills remain high on the agenda. Montenegro has made use of EU self-reflection tools, such as SELFIE for schools.

Regarding green education, Montenegro's education system implements the education for sustainable development by including, under all school subjects, the issues of climate change, green economy, environment protection, sustainable cities and settlements, biodiversity, and health education.

As part of the early and preschool education strategy for 2021-2025, the Ministry of Education continued efforts to increase the enrolment of children in public preschool institutions including through awareness-raising campaigns. For the 2022/2023 school year, nearly 25 000 children (out of which nearly 12 000 girls and nearly 13 000 boys) enrolled in public and private preschool institutions, which is 7% more than in 2021. However, regional disparities remain, with low -take-up in the north.

In terms of inclusive education, vulnerable children coming from the Roma and Egyptian communities now have greater possibilities for early childhood development and education. In June 2022, 26 educators received training for work with Roma and Egyptian families, which resulted in 267 children attending kindergarten. In accordance with the 2021-2025 action plan for the implementation of the strategy of social inclusion of Roma and Egyptians in Montenegro, scholarships (worth nearly EUR 54 500) were provided to high-school

students and students of the Roma and Egyptian community in September-December 2022. The engagement of Roma and Egyptian mediators in education continued, as 25 mediators were hired in primary schools. This practice proved to be very useful for including children from the Roma and Egyptian communities in the education system, as well as for reducing school dropout rates.

A programme was also set up to include children from Ukraine in the educational system of Montenegro.

Furthermore, the Bureau for Textbooks and Teaching Aids prepared didactic material for 520 students, mostly for mastering teaching material, support for literacy, mathematics, managing emotions and behaviour. A consultation of school principals was held on topics including augmentative and alternative communication, the picture exchange communication system, social stories and Cboard, an application for children and adults with speech and language impairments, aiding communication with symbols and text-to-speech. A training session for about 150 representatives from 40 schools (IT coordinators, professional service staff, and active classroom and/or practical teachers) followed. The Cboard application is used in 13 preschool institutions, in 4 primary schools, and in resource centres. In total, 81 tablets were allocated and are used in work with about 120 students.

In the area of skills and **VET**, the Ministry of Education is committed to the Osnabrueck Declaration and reforms to address skills mismatches, including work-based learning and curricula reforms. Montenegro is yet to draft and adopt its report on the implementation of the 2020-2022 action plan related to the VET strategy and the new action plan for the period until the expiration of the strategy in 2024. Montenegro helped prepare the report on the Turin Process with a focus on system performance indicators and lifelong learning. The implementation of dual education continued with around 400 students placed with more than 200 employers. Regarding skills mismatches, the main issues remain overqualification or working in professions for which people lack appropriate education/skills. The study on career guidance done together with the European Training Foundation (ETF) in 2022 includes proposals for guiding students and adults to help address skills mismatches.

Furthermore, Montenegro is still to adopt its strategy on higher education for 2023-2027 and a new law on higher education.

Montenegro benefits from the international dimension of the 2021-2027 Erasmus+ programme. In 2022, around 320 higher education staff members and 460 students from Montenegro were selected to undertake a mobility period in EU Member States or associated third countries to the programme, while Montenegrin higher education institutions are expected to host around 275 staff members and 240 students from Europe. Montenegro was invited to take part in the European Education Area working groups 2021-2025.

In the area of **culture**, Montenegro is yet to adopt a national strategy for the development of culture for 2023-2027. Montenegro participates in the EU Creative Europe Programme. The Ministry of Culture continued to raise awareness of opportunities for Montenegrins under the 2021-2027 programme.

The Ministry of Sports and Youth formed a working group end of August 2022 to work on the amendments to the **Youth Law**, to further specify youth services and implementation procedures. However, Montenegro is yet to approve the amendments to the Law and adopt its new youth strategy, which should replace the strategy that expired in 2020. The new strategy should be accompanied by a time-bound action plan on its implementation. The fact that the new strategy is still to be adopted is also preventing the operationalisation of the youth centres. Furthermore, intersectoral cooperation between various ministries dealing with youth

issues needs to improve.

Draft amendments to the Law on Sports and the Sports development Strategy 2023-2026 were not yet tabled.

## **Chapter 29: Customs union**

*All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment, as well as adequate implementing and enforcement capacity and access to common computerised customs systems.*

Montenegro is **moderately prepared** for the customs union. It made **some progress**, advancing preparations for its accession to the Convention on a common transit procedure, and implementing measures envisaged in the trade facilitation strategy for 2018-2022, thus partially addressing last year's recommendations. Staff shortage slowed down the implementation of many IT projects. Challenges related to the illicit tobacco trade through the port of Bar were partially addressed, but close monitoring and follow-up action is needed.

In the coming year, Montenegro should in particular:

- implement an EU-compatible computerised transit system and finalise accession to the Convention on a common transit procedure;
- ensure sufficient staffing levels and funding to implement and upgrade customs IT systems.

In the area of **customs legislation**, in February 2023, Montenegro started implementing a new Customs Code, aligned with the Union Customs Code. The Law on accession to the Convention on a common transit procedure (CTC) and the planned legislation to control the production of and trade in drug precursors are not yet adopted. Implementing legislation on the customs status of goods and the national transit procedure with a view to implementing the new computerised transit system (NCTS) and acceding to the CTC is already in place.

Montenegro applies the Regional Convention on pan-Euro-Mediterranean (PEM) preferential rules of origin and implements transitional rules of origin based on the revised PEM Convention.

Montenegro has yet to further align legislation on customs security with the EU *acquis*, and to adopt implementing legislation on the export control of cultural goods. Fees continue to be charged to lorries in inland customs terminals located in privately owned facilities, which is not in line with the EU *acquis*.

Agreements between the European Commission and Montenegro on participation in the Customs and Fiscalis programmes were concluded in November 2022.

In the area of **administrative and operational capacity**, the Revenue and Customs Administration (RCA) hired several new employees in the area of customs. However, staff shortages, in particular of IT specialists, remain a significant concern.

Work on the delayed implementation of the NCTS continued, with a pilot application of the system in progress. The start of the national implementation of the NCTS is planned for September 2023, with full application not expected before the second half of 2024. This also delays accession to the CTC until the second half of 2024. Several projects funded by the EU and its Member States are under way to upgrade various customs IT systems or build capacity in various areas of the customs service operation. The accreditation process for the customs laboratory is still ongoing.

In 2022, the gross collection of customs revenues amounted to approximately EUR 1 billion, over 24% more than in 2021. The upward trend continued in 2023, with customs revenues reaching EUR 1.22 billion by the end of June, 25% more than in the first 6 months of 2022.

Following the implementation of the decision to ban the storage of tobacco products in the free zone of the port of Bar, the RCA seized over 1.5 billion cigarettes worth some EUR 202 million. In February 2023, the government's stake in the port of Bar increased to 78.55% after the purchase of shares from minority shareholders. The government intends to become the sole owner of the port of Bar and take over Port of Adria, the operator of the free zone in the port of Bar. This could make it possible to introduce a much more efficient surveillance and control of all port operations, including any shipments of tobacco products. To address the gaps in the current monitoring and tracing arrangements, Montenegro should ensure close monitoring of all tobacco-related operations in the port, including by implementing the cargo targeting system, which enables pre-arrival risk analysis of containers in the port of Bar and electronic record keeping of containers.

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

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

Some progress was achieved on creating a functioning day-ahead energy market. Montenegro successfully joined the Paris Memorandum of Understanding on port state control. Good progress was made on the implementation of Intelligent Transport Systems in road transport. There was limited progress on implementing the Transport Development Strategy and none on its review. There was very limited progress concerning environment and climate change.

In the coming period, Montenegro is invited to focus on the following areas: complete key recommended reforms in the transport area, in particular on rail transport and on the review of Transport Development Strategy; adopt and implement the law on security of supply of oil products and couple the day-ahead energy market with neighbouring countries; strengthen the administrative capacities to prepare for trans-European networks in the areas of transport, telecommunications and energy; considerably step up ambitions towards a green transition and step up its efforts on implementation and enforcement work to achieve the closing benchmarks in Chapter 27 and in particular on waste management including organising awareness raising campaigns on recycling and waste separation and necessary enforcement targeting citizens and local authorities, adopt the Strategy on Air quality 2021-2029, address water quality issues, nature protection and adopt the national energy and climate plan to achieve decarbonisation by 2050 without further delays.

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

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

Montenegro is **in between moderate and a good level of preparation** in the area of transport policy. There was **good progress** on key reforms, notably on the implementation of intelligent transport systems (ITS) in the road sector and on accession to the Paris Memorandum of Understanding on Port State Control. Other recommendations from last

year's report remain valid.

In the coming year, Montenegro should in particular:

- adopt a new railway law to ensure the operational independence and appropriate staffing of the railway regulatory body and railway safety authority;
- lay down the strategic ITS framework for the rail and maritime networks;
- urgently adopt and start implementing a new road safety strategy for 2023-2030.

As regards **general transport**, alignment of the national transport strategy with the sustainable and smart mobility strategy for the Western Balkans of the Transport Community, intended to provide a shift towards greener transport modes, is pending. Implementation of the action plans endorsed by the Transport Community continued, but progress was slow to moderate. Appropriate financing of the Commission for Investigation of Accidents in Maritime, Rail and Air Transport is yet to be secured. There was still no progress on alignment of national legislation with the *acquis* concerning public service obligations, procedures and criteria for the award of public service contracts in road, rail and maritime transport. For larger transport agglomerations, sustainable urban mobility plans that respect environmental and social standards should be developed, following EU practice.

In the area of **road transport**, in December 2022, the Parliament adopted amendments to the Law on roads, making it possible to collect charges for the use of roads and road land. Implementation of intelligent transport system solutions started on the Bar-Boljare road, including in the Sozina tunnel and on the section of the highway, opened in 2022.

The implementation of 2020-2022 programme for road safety brought some improvements to the data collection and analysis, but did not yield the expected results in terms of safety, with no improvement or reduction of fatal and serious road traffic accidents. A new road safety strategy for 2023-2030 is still at a draft stage and should be adopted as soon as possible. Montenegro should also set up a dedicated road safety agency. Challenges remain in effectively enforcing the international agreements on carriage of dangerous goods by road.

In March 2023, the government adopted the 2023 programme for reconstruction and maintenance of state roads. However, no mid-term road maintenance and rehabilitation programme has been prepared.

On **rail transport** legislation, there was no progress on alignment with the EU *acquis*. Montenegro is invited to align its legislation to the 4<sup>th</sup> railway package to ensure a fully open market for passenger and freight services. The government continued to heavily subsidise the state-owned company Railway Infrastructure of Montenegro to ensure regular maintenance of the railway infrastructure. Montenegro has yet to introduce performance-based multiannual maintenance contracts based on effective cost control, benchmarking and regulatory supervision. Plans for sustainable and rationalised railway infrastructure rehabilitation and multiannual maintenance still need to be urgently developed.

In the area of **maritime transport**, Montenegro is yet to align national legislation with the EU *acquis* on ports and to adopt legislation based on the Port Services Regulation. Following a successful assessment and removal of the last legal obstacles, Montenegro became a member to the Paris Memorandum of Understanding on Port State Control on 1 July 2023. Montenegro is currently implementing the national maritime single window and upgrading the vessel traffic monitoring and information system, but progress is moderate to slow due to pending administrative issues.

In February 2023, the government increased its ownership in the port of Bar to 78.55%,

increasing its majority in the management board. This provides additional leverage for future strategic decisions, including a potential takeover of Port of Adria, the operator of the free zone in the port of Bar. In February 2023, operation of the only ferry line crossing the Bay of Kotor was assigned to the public company for coastal zone management. The government terminated the contract with the private company that had previously operated this line. For sustainable and safe operations of ferry services it is important to ensure fair and transparent concession award and termination procedures.

In the area of **inland waterway transport** in Montenegro, no progress was achieved in aligning national legislation with relevant EU *acquis*.

As regards **aviation**, in April 2023, the Parliament ratified amendments to the European Common Aviation Area Agreement and its Annex I, on the rules applicable to civil aviation. However, the law was not signed by the president. Certification of Podgorica airport was successfully finalised in May 2023, the procedure is still ongoing for Tivat airport. The adoption of several implementing laws during 2023 provided further alignment on common rules in the field of civil aviation, air safety and air traffic operations. In November 2022, the national airline company, To Montenegro, received an Operational Safety Audit certificate from the International Air Transport Association. The company currently operates four aircrafts and slowly develops its connection network.

Concerning **combined transport**, the government is yet to start the implementation of a business plan prepared under the feasibility study for transforming the port of Bar into a sustainable multimodal platform. Again, there was no progress on drafting new legislation for combined freight transport.

Montenegro should increase efforts to align with and implement EU passenger rights legislation.

## Chapter 15: Energy

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

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

In the coming year, Montenegro should, in particular:

- finalise and adopt the national energy and climate plan (NECP);
- transpose and implement the Electricity Integration Package and accelerate the move to market-based support schemes for renewable energy production based on streamlined permitting and connection procedures;
- adopt the Law on security of supply of oil products and appoint the stockholding body for the mandatory oil reserves.

In the area of **security of supply**, Montenegro has an energy development strategy up to 2030. In July 2022, the government set up a national council responsible for analysing and monitoring the security of energy supply and adopted a decision on the long-term energy balance of Montenegro for 2023-2025. In November 2022, the government adopted the energy balance of Montenegro for 2023.

The Ministry of Capital Investments prepared a draft law on compulsory strategic reserves of

oil and petroleum products. The draft received a positive opinion from the Energy Community Secretariat, but a consultation procedure between various government departments is still ongoing. Oil stocks remain very low, and Montenegro intends to secure strategic oil reserves by introducing stock-keeping obligations on importers of petroleum products, in addition to the reserves to be kept and managed by Montenegro's Hydrocarbons Administration.

Work on the National Energy and Climate Plan (NECP) was delayed, with the expected adoption postponed to the second quarter of 2024. The NECP will become the new strategic plan for the development of the energy sector until 2030, include policy and measures in the field of renewable energy and energy efficiency and align Montenegro's energy policy with 2030 Energy Community targets.

Work on trans-Balkan electricity corridor continued, but the construction of the electricity interconnection with Serbia did not start. The costly refurbishment of the thermal power plant in Pljevlja progressed, despite numerous controversies concerning environmental and State aid aspects of this investment and Montenegro's international commitments on greenhouse gas emissions (*see also Chapter 27: Environment and climate change*).

Following the adoption of the Energy Support Package for the Western Balkans in November 2023, Montenegro received EUR 27 million of budget support from the European Commission to reduce the immediate socio-economic impact of the energy crisis on vulnerable social groups and SMEs. As part of the package, Montenegro's Parliament adopted the national energy action plan in January 2023. The plan consists of 13 measures, covering a range of targets, including the preparation of a strategic framework for the NECP and implementation of the Commission's recommendations on energy included in the annual report by January 2024.

The adoption of the Energy Support Package incentivised national authorities to strengthen the interinstitutional coordination and a multi-stakeholders dialogue. Nevertheless, administrative capacity still needs to be strengthened.

Concerning the **internal energy market**, the transposition and implementation of the Electricity Integration Package is still pending. Montenegrin Power Exchange LTD finalised preparatory activities to support the legal, operational and technical functioning of the day-ahead market. BELEN, the operator of the Montenegrin Power Exchange or MEPX launched the day-ahead market on 26 April 2023 for the territory of Montenegro. The launch of the intraday market is still pending. A total of 63 participants are registered to participate in the wholesale electricity market of Montenegro.

In the area of **hydrocarbons**, national legislation is aligned with the Hydrocarbons Licensing Directive. The Law on safety measures in offshore exploration and production of hydrocarbons is still pending adoption by the Parliament. The exploration period granted to concessionaires for offshore hydrocarbons exploration expired. The construction of Montenegro's section of the Ionian-Adriatic Gas Pipeline (IAP) did not progress. The advancement of the project depends on the ability of the government to conclude appropriate public consultations and reach an agreement with concerned municipalities on the preferred alignment.

In the area of **renewable energy**, in 2021, 39.3% of gross final consumption of energy came from renewable sources, which exceeded the 33% target to be achieved by 2020 under Montenegro's national action plan. Five large renewable energy projects (one hydropower plant, two wind energy and two solar energy plants) are in preparation and expected to be gradually implemented once the NECP is adopted. It remains essential that all new renewable

energy projects are developed in conformity with the *acquis* on concessions, State aid and the environment.

In the area of **energy efficiency**, in December 2022, the Parliament adopted amendments to the Law on energy efficiency, resulting in an improved legal framework and better alignment with EU directives on energy efficiency and energy performance of buildings. Preparations are ongoing to introduce the NECP as key planning document in the field of energy efficiency, instead of the current energy efficiency action plan. The Ministry of Capital Investments continued coordinating several programmes on energy-efficiency improvement for private households as well as for public buildings, with a focus on the healthcare and educational sectors. Nevertheless, the certification of the energy performance of buildings is not yet implemented and the long-term building renovation strategy is yet to be finalised and adopted.

Regarding **nuclear energy, nuclear safety and radiation**, Montenegro does not have a nuclear industry, research reactor or any other facility producing radioactive material. National legislation prohibits the construction of nuclear facilities. Montenegro continues to participate in several regional initiatives for the early exchange of information in the event of a radiological emergency or hazard including the European Community Urgent Radiological Information Exchange. Montenegro is yet to join the European Radiological Data Exchange Platform and currently has no intention to participate in the Capital and Advisory Committee of the Euratom Supply Agency.

On **nuclear safeguards**, upon accession, the existing systems of accountancy and control of nuclear materials in Montenegro would need to be adapted to accommodate for the safeguard provisions (chapter 7) of the Euratom Treaty.

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

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

Montenegro is **in between moderate and a good level of preparation** in trans-European networks. There was **limited progress** in this area, mostly on the implementation of rail projects. Numerous delays in developing transport and energy infrastructure demonstrate weaknesses in Montenegro's project design, decision making and management capacity. Last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- review the transport development strategy and align it with the strategy for sustainable and smart mobility in the Western Balkans, confirming a policy shift towards rail, multimodality, reduction of CO<sub>2</sub> emissions and other environmental impacts;
- develop institutional policies to hire and retain skilled staff to manage infrastructure projects in the areas of transport, telecommunications and energy;
- revise institutional policies to improve decision-making on infrastructure projects and increase the capacity to absorb funding.

In the area of **transport networks**, Montenegro continued cooperating with the Transport Community Secretariat and implementing its six action plans, but progress was moderate. The revision of the transport development strategy to align it with the strategy for sustainable and smart mobility in the Western Balkans, and to provide a shift towards greener transport modes is pending.

As part of the proposed revision of the Regulation on the trans-European transport network (TEN-T), the European Commission and Montenegro conducted bilateral discussions on adapting the indicative map of the transport-infrastructure network for Montenegro and agreed on two changes, adding the Montenegrin section of the rail line between Podgorica and Capljina (Bosnia and Herzegovina) and the airport of Tivat to the comprehensive TEN-T network. In May 2023, revised TEN-T maps for the Western Balkans were endorsed in a high-level understanding on indicative maps for TEN-T. The amended maps will become part of the revised TEN-T Regulation.

In the area of **transport-infrastructure development**, road and rail projects and investment faced significant delays, which shows that the responsible administrative bodies have limited absorption and management capacity.

The EU-funded feasibility study for the entire Bar-Boljare highway, including environmental and social assessments, was made public in October 2022. Montenegro's government confirmed its commitment to continue the highway project with the help and financing of the EU partners. In December 2022, the EU provided financial support for an update to the feasibility study and a detailed design of the next priority section. However, work on preliminary designs for the next highway sections (Matesevo-Andrijevic and the Podgorica bypass) was delayed and remains incomplete.

Work was also delayed on the main design of the Scepan Polje-Pluzine road, part of TEN-T Route 2b, comprehensive network. Montenegro endorsed an agreement with Bosnia and Herzegovina for the construction of an interstate bridge over the Tara river on the same TEN-T route. The preliminary design work on the Budva bypass, a 30 km section of the Adriatic-Ionian highway, continued with further delays until its completion in April 2023. A public consultation on a new spatial plan for Montenegro covers a new alignment of the Adriatic-Ionian highway, disregarding previously adopted studies on this route. The newly proposed alignment is not included in the TEN-T extension to the Western Balkans.

As regards the rail network, work on various rail projects continued with EU funding, including on upgrading the Bar-Vrbnica railway, which is part of the core network corridor. The government considers the rail corridor, parallel to the Bar-Boljare highway, as subsidiary to the highway. A change in Montenegro's strategic thinking and planning is needed towards an integrated transport corridor approach with a focus on minimising CO<sub>2</sub> emissions and other environmental impacts.

A multimodality study for the port of Bar was completed. The study recommends investment to improve bulk cargo handling and make it environmentally friendly.

In the area of **energy networks**, work continued to interconnect the electricity systems of Serbia, Bosnia and Herzegovina, Italy and Montenegro. There was no progress on the Ionian-Adriatic Gas Pipeline (IAP) project. The progress of this project depends on the government's ability to complete the public consultations and reach an agreement with relevant municipalities on the preferred alignment of the pipeline.

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

Montenegro is yet to fully align its legislation with the **EU *acquis*** on the TEN-T and the trans-European energy network.

## Chapter 27: Environment and climate change

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

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

In the coming year, Montenegro should in particular:

- intensify implementation and enforcement work to achieve the closing benchmarks in Chapter 27, in particular in the water, nature protection, air quality, industrial pollution and climate change sectors;
- adopt and start implementing the Waste Management Law and the national waste management plan and the Strategy on air quality management for 2021-2029;
- finalise, adopt and start implementing the national energy and climate plan in a transparent manner, in line with the EU's 2050 zero emission target and the Green Agenda for the Western Balkans.

### Environment

As regards horizontal **legislation**, in June 2023, the government adopted the fourth semi-annual report on the implementation of the action plan for fulfilment of the closing benchmarks in Chapter 27. The report showed that out of 102 planned activities, only 39 were implemented (38.23%). The highest level of implementation was in the area of water quality, industrial pollution and chemicals, the lowest in the area of air quality, noise and climate change. In the reporting period, Montenegro completed 1 strategic environmental assessment (SEA) and 65 environmental impact assessments (EIA). In the area of environmental crime, in the reporting period, 97 new cases were registered, and 53 cases were legally resolved. Montenegro still needs to urgently address the lack of sufficient administrative capacity at central and local level and in inspection bodies, the insufficient interinstitutional coordination, and the lack of a sustainable financial framework. In January 2023, the head of the working group for Chapter 27 was finally appointed. Public participation in decision making process is taking place but requires further improvement.

As regards **air quality**, there was no significant progress. The adoption of the strategy on air quality management for 2021-2029 and the related action plan are still pending. At the beginning of winter, an increase in air pollution was recorded due to heating with wood, specifically in the urban part of the Pljevlja municipality. During December 2022, the value of the average daily concentration of particulate matter 10 (PM10) particles exceeded the limit in several municipalities particularly in Pljevlja and Podgorica.

In the area of **waste management**, national legislation remains partially aligned with the EU *acquis*. Considerable efforts on strategic planning and investment are needed to implement the national strategy for waste management until 2030. The new Law on waste management, was finalised and is pending adoption by Parliament. Amongst other issues this new Law bans the use of lightweight plastic carrier bags with a thickness between 15 and 50 microns,

at retail establishments, and introduces the extended producer responsibility program. The drafting of the state waste management plan for 2023-2028 is ongoing. Infrastructure for separate waste collection and recycling exists, however it is not used properly by citizens, and illegal and temporary waste disposal have yet to be resolved. Media campaigns for awareness raising and proper enforcement rules, targeting citizens and local authorities, about separating waste disposal and recycling, are needed. The database on hazardous and non-hazardous waste treatment, hampered following the August 2022 cyber-attack, needs to become operational.

Alignment of national legislation with the EU *acquis* on **water quality** remains limited and significant efforts are needed to step up the process. The Ministry of Agriculture, Forestry and Water Management increased its administrative capacity in this area by hiring new personnel. On 12 January 2023, the government adopted the 2023 programme for monitoring surface and ground water. Montenegro ensured alignment of its legal framework with the Marine Strategy Directive by completing the marine environment monitoring programme and developing a database on the basis of the Geographic Information System. To further align its national legislation with the urban waste water *acquis*, the waste water treatment plants in Andrijevica and Petnjica as well as the Volujica sewage pumping station in Bar were completed. Work is also ongoing for the urban waste water treatment plants in Podgorica and Pljevlja.

In the area of **nature protection**, Montenegro's national legislation remains partially aligned with the EU *acquis*. Progress in this field was limited in the reporting year. The drafting of amendments to the Law on nature protection is still ongoing. Work has not yet started on the new national strategy for biodiversity and the amendments to the Law on forests and the amendments to the Law on wildlife and hunting remain pending. Activities continued regarding the identification of potential Natura 2000 areas. In the reporting period, a total of eight management plans were adopted, three for the marine protected areas: Platamuni, Stari Ulcinj, and Katič and five for the national parks: Biogradska gora, Durmitor, Lovćen, Skadarsko jezero and Prokletije. However, the management plan for the Ulcinj Salina is still pending. More active involvement of the municipality of Ulcinj and the government is essential to avoid delaying any decisions and advance towards the closing benchmark. Some activities are also ongoing to implement the recommendations of the Bern Convention regarding Lake Skadar.

No significant progress was registered on **industrial pollution control and risk management**; Montenegro's national legislation remains partially aligned with the EU *acquis*. In line with the Law on industrial emissions, the Agency for Environmental Protection received three new requests for an integrated permit and finalised two requests for revision of an integrated permit. One request for revision of an integrated permit and one request for termination of an integrated permit are still being processed. The European Commission notes that the ecological reconstruction plan for the Pljevlja coal power plant will not address the core issues. Montenegro needs to step up its efforts to permanently close the plant to meet EU emission standards. Montenegro needs to plan for a just transition in the region, by providing economic alternatives to the communities that will be affected the most by the coal phase-out.

On **chemicals**, Montenegro's legislation remains partially aligned with the EU *acquis*. In July 2022, the government adopted the report on the implementation of the 2021 action plan for the implementation of the national chemicals management strategy for 2019-2022. The 2024-2026 national chemicals management strategy was adopted in August 2023 and focus should now be directed towards its implementation to ensure enforcement of legislation and

measures to reduce the risks of hazardous chemicals for better protection of human health and the environment. Over the reporting period, the government adopted a number of secondary legislative acts to implement the Law on chemicals. Amendments to the Law on biocidal products are finalised and pending adoption by Parliament.

In the field of **noise**, the Ministry of Ecology, Spatial Planning and Urbanism (MESPU) is finalising the amendments to the Law on protection from noise in the environment with the aim of increasing inspection supervision in the field of environment noise protection. No measures were taken to raise public awareness on environmental noise protection.

As regards **civil protection**, Montenegro has been a member of the Union Civil Protection Mechanism (UCPM) since April 2015. In November 2022, the government adopted the national plan for rescue and protection from radiation and nuclear accidents. In December 2022, the Parliament adopted amendments to the Law on rescue and protection as well as related secondary legislation. The necessary communication equipment, the Secure Trans European Services for Telematics between Administrations (sTESTA), is installed in the Police Directorate, thus fulfilling the pre-requisite to connect to the Common Emergency Communication and Information System (CECIS). As a member of the UCPM Montenegro needs to swiftly proceed with establishing connection to the CECIS. Montenegro has provided assistance under the UCPM to Türkiye in response to the earthquake in February 2023.

#### Climate change

In the area of **climate change**, the level of alignment of Montenegro's national legislation with the EU *acquis* remains limited. Montenegro has a climate-change strategy in place but must intensify its work to ensure consistency with the EU's 2030 climate and energy policy framework. Montenegro needs to strengthen its administrative capacity to enable the implementation and enforcement of the EU *acquis*. Considerable work is still required to align national legislation with the EU *acquis*, such as incorporating the remaining aspects of the EU Emissions Trading System (ETS), the Effort Sharing Regulation and the Governance Regulation. In February 2023, the National Council for Sustainable Development set up a permanent working group for mitigation and adaptation to climate change. The aim of the working group is to set up a monitoring and reporting system for greenhouse gas emissions and to prepare policies and measures for adaptation and mitigation to climate change in accordance with the EU *acquis*. Concerning the implementation of the Decree on activities that emit gases that cause the greenhouse effect, a public auction for the allocation of emission credits was organised for the first time in February 2023. The proceeds – worth EUR 9.2 million – will encourage the construction of renewable energy sources, protecting and improving the environment, and encouraging innovation. The MESPU promoted the purchase of cars with low fuel consumption and CO<sub>2</sub> emissions by issuing a guide in 2022. Together with the United Nations Development Programme, the MESPU is also preparing a national climate-change adaptation plan. The national energy and climate plan to achieve decarbonisation by 2050 is not yet in place and is delayed for yet another year. Montenegro needs to take decisive steps for the establishment of a mechanism on carbon pricing, aligned with the EU ETS to advance the implementation of the EU *acquis* and adequately prepare for the EU Carbon Border Adjustment Mechanism that entered into force in its transitional phase on 1 October 2023.

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

This cluster covers: agriculture and rural development (Chapter 11); food safety, veterinary

and phytosanitary policy (Chapter 12); fisheries and aquaculture (Chapter 13); regional policy and coordination of structural instruments (Chapter 22); and financial and budgetary provisions (Chapter 33). All five chapters are open, with closing benchmarks that remain to be fulfilled in each chapter. This cluster comprises policies linked to European structural funds requiring particular preparation for developing the capacities to assume responsibilities of a future Member State.

Progress was achieved in different areas e.g. in agriculture, food and fisheries through further support for agricultural establishments and rural food companies to align with the EU standards and in implementing IPARD II. The Strategy for agriculture and rural development for 2023-2028 was also adopted. On financial and budgetary provisions, progress was achieved through improved coordination and management of own resources. In the coming period, Montenegro is advised to accelerate the spending of EU funds under IPARD II to avoid de-commitments and start the implementation of IPARD III programme. Furthermore, Montenegro should accelerate legislative alignment in the area of agriculture (such as the Law on organic farming, Law on wine and on Olive Oil), and fisheries and aquaculture (adopt the Law on structural measures and State aid in fisheries and aquaculture and Law on marine fisheries and mariculture), adopt and start implementing the new 2023-2028 fisheries and aquaculture strategy; and in the area of food to continue upgrading food establishments and further strengthen administrative capacity in particular on food safety controls; to update the action plan for meeting EU cohesion policy requirements while strengthening capacities to manage IPA programmes; to further align the institutional framework and rules of administration for the own resources system.

### Chapter 11: Agriculture and rural development

*The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.*

Montenegro remains **moderately prepared** in the area of agriculture and rural development. **Some progress** was achieved on last year's recommendations, mainly in implementing the Instrument for Pre-accession Assistance for Rural Development (IPARD II and III) programmes, by organising further calls, adopting the Sectoral Agreement for IPARD III, requesting to roll over entrustment and receiving entrustment for the 'Farm diversification and businesses development' measure. The capacity of the IPARD Agency was strengthened. Progress was also registered with the adoption of the strategy for agriculture for 2023-2028. The implementation of the action plan on EU *acquis* on agriculture and rural development alignment was limited.

In the coming year, Montenegro should in particular:

- use to the best possible extent the remaining budget under IPARD II, open the first new calls for applications under IPARD III, work on completing the entrustment of the technical assistance, and submit new measures for entrustment;
- further implement the action plan for alignment with the EU *acquis* on agriculture and rural development, including by setting up a decentralised branch of the paying agency;
- significantly progress with the roll-out of the land parcel identification system (LPIS) across the whole territory.

As regards **horizontal issues**, the strategy for agriculture and rural development for 2023-2028 was adopted in June 2023. Montenegro still needs to bring its support measures fully in line with EU *acquis*.

Progress in setting up the integrated administration and control system (IACS) remained slow. The land parcel identification system (LPIS) has yet to be rolled out across the whole territory. Preparations are ongoing to secure new orthophotographs to update the system. Efforts to further develop the farm accountancy data network (FADN) need to continue. Farm advisory services have yet to be strengthened.

As regards the **common market organisation**, Montenegro needs to step up implementation of the activities under the action plan on EU *acquis* alignment. The Law on wine needs to be updated in line with EU *acquis*. Work is under way to develop an electronic vineyard register. In January 2023, a Law on spirit drinks in line with the EU *acquis* was adopted.

Amendments to the Law on olive growing and olive oil, laying down, clearer rules for the production and placing on the market of olive oil as well as on control provisions are pending adoption by Parliament.

The 2023 programme for improving the availability of food under the schools scheme was adopted. Procedures and conditions for administering preferential customs quotas for the import of agricultural products were improved.

In the area of **rural development**, two new calls were issued which means that Montenegro now has a total of 11 IPARD II calls. In March 2023, the European Commission entrusted Montenegro with budget implementation tasks for the IPARD measure ‘Farm diversification and business development’, which enables the country to contract projects from its first call. The external audit assessment of the IPARD measure ‘Technical assistance’ was provided to complete the entrustment package that Montenegro sent to the European Commission in February 2022. A second automatic decommitment of funds took place after the end of the financial year 2022, and there is significant risk of losing additional funds at the end of 2023. The last call under the IPARD II programme closed in June 2023. The fact that the IPARD II programme is still running should not slow down the start of the implementation of the IPARD III programme. Authorities are encouraged to put further efforts into ensuring full absorption of available funds.

In June 2022, the European Commission approved Montenegro’s IPARD III. After adoption by the government, the Montenegrin Parliament confirmed the programme in December 2022 by adopting the national Law on the management and implementation of the IPARD III. The instrument’s implementation can be launched once the full regulatory framework is in place. Montenegro continued to strengthen the administrative capacity of the IPARD Agency by hiring additional staff. Work on setting up IPARD Agency’s regional offices is ongoing, albeit slowly.

As regards **quality policy**, the registration of products under the National Quality Scheme continued. All recommendations of the 2019 EU peer-review mission require proper follow-up, including activities to strengthen the control system.

The **organic farming** sector needs support to fulfil its potential for further development and expansion. The Ministry of Agriculture, Forestry and Water Management is implementing a pilot scheme to apply for entrustment of IPARD measure 4 ‘Agri-environment-climate and organic farming’. Work is still ongoing in drafting the Law on organic production, which aims to further align national legislation with the EU *acquis*.

## **Chapter 12: Food safety, veterinary and phytosanitary policy**

*EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with quality of seeds, plant protection material, protection against harmful organisms and animal nutrition.*

Montenegro remains **moderately prepared** on this chapter. **Some progress** was achieved over the reporting period, including the adoption of the second update of Montenegro's strategy for transposition and implementation of the EU *acquis* together with a general action plan and a specific action plan for control and eradication of classical swine fever and the adoption of implementing legislation to align with the EU *acquis* in the food safety, veterinary and phytosanitary area. There is a need to step up the strengthening of administrative capacity and infrastructure. The Commission's recommendations from last year remains valid.

In the coming year, Montenegro should in particular:

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

In the area of **general food safety**, the government adopted in September 2023, the second update of Montenegro's strategy for alignment with and implementation of the EU *acquis* relevant for Chapter 12 including a General action plan and a Specific action plan for control and eradication of classical swine fever. The Administration for Food Safety, Veterinary and Phytosanitary Affairs (AFSVPA) implemented the 2022 programme for food and feed safety and quality measures and adopted the 2023 programme. The AFSVPA strengthened its administrative capacity to a certain extent by recruiting one food inspector.

As regards **veterinary policy** and animal welfare, the AFSVPA adopted further implementing legislation to align national legislation with the EU *acquis*. The AFSVPA implemented the 2022 programme of mandatory animal health protection measures, despite problems related to the August 2022 cyber-attack and the subsequent blockage of the electronic database on animals and the central register of farms. The AFSVPA adopted the 2023 programme envisaging intensified awareness-raising campaigns, strengthening passive surveillance of priority diseases (avian influenza, bluetongue disease, African swine fever and rabies) and fulfilling the conditions for acquiring status for some of the diseases (bovine tuberculosis, brucellosis and enzootic bovine leucosis).

The AFSVPA implemented disease surveillance programmes. Montenegro successfully implemented the autumn 2022 and spring 2023 rabies vaccination campaigns with EU support. In November 2022, the World Organisation for Animal Health accepted the self-declaration of Montenegro as a rabies-free country. Montenegro's application to be added to the European Commission's list of rabies-free countries, which would enable exemptions from serological tests and thus ease the conditions for non-commercial movement of pets, is currently under consideration by the Commission. There were no new cases of avian influenza during the reporting period; measures to prevent, detect and control the disease are in force.

The AFSVPA continued harmonising legislation and improving the national system for residual control and veterinary medicines. The 2022 programme for monitoring residues in animals and products of animal origin was implemented. Furthermore, a new programme for

monitoring prohibited substances in intestines was introduced as a new monitoring product. Montenegro's request to be included in the list of countries for which residue monitoring has been approved, was approved by the European Commission in June 2023.

The AFSVPA continued to improve the national regulatory and control system for poultry production and poultry products, and to harmonise it with systems in the EU. The finalisation of the veterinary information system was delayed because of the August 2022 cyber-attack. Four calls have been published under IPARD II (2014-2020), focusing on education about improving existing animal welfare conditions in housing facilities for food producing animals.

As regards administrative and inspection capacity, the AFSVPA hired two veterinary inspectors.

In the area of **placing on the market of food, feed and animal by-products**, the AFSVPA continued implementing the national programme for the upgrading of food establishments. This resulted in a high percentage of establishments fulfilling their obligations under the improvement plans. The number of facilities licensed to export to the EU remained the same at 19.

The outstanding issues regarding the location of the facility for processing animal by-products resulted in a delay in the implementation of activities linked to the management of animal by-products not intended for human consumption.

Montenegro continued to implement its national programme for improving raw milk quality and handling non-compliant milk. National milk laboratory staff received training on all laboratory information management system modules. Their connection with the veterinary information system is delayed due to the August 2022 cyber-attack. In the area of **food safety rules and specific rules for feed**, the AFSVPA implemented the 2022 programme of food and feed safety measures and adopted the 2023 programme.

The 2022 programme of **phytosanitary measures** was implemented along with the programme of control of production of seed and propagating material. The 2023 programme was also adopted. The AFSVPA adopted further implementing legislation in the phytosanitary area and timely carried out the 2021-2026 national plan for sustainable use of pesticides. On 31 March 2023, the European Commission accepted Montenegro's self-declaration as a country that it is free from *Xylella fastidiosa*. The AFSVPA strengthened its administrative capacity by hiring two phytosanitary inspectors and one consultant in the department for pesticides.

On **genetically modified organisms**, the AFSVPA implemented the 2022 programme for genetically modified food and feed monitoring and started implementing the 2023 programme.

### **Chapter 13: Fisheries and aquaculture**

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

Montenegro has **some level of preparation** in this area. **Limited progress** was made in the areas of strengthening the administrative capacity, improving data collection and good cooperation within the General Fisheries Commission for the Mediterranean (GFCM)

framework. Last year's recommendations remain valid. Montenegro continued to be a reliable partner in international fora.

In the coming period, Montenegro should in particular:

- finalise and adopt the new fisheries and aquaculture strategy with the action plan on aligning national legislation with and enforcing the EU *acquis*;
- adopt the pending legislation on market organisation, structural measures and State aid in fisheries and aquaculture and on governing marine fisheries and aquaculture;
- continue to strengthen administrative, data collection, scientific advice, inspection and control capacity.

Montenegro is still preparing the new 2023-2028 fisheries and aquaculture strategy and its action plan. The Law on market organisation in fisheries and aquaculture and the Law on structural measures and State aid in fisheries and aquaculture are still pending adoption by the Parliament. Work is ongoing on the organisation of a Technical Assistance and Information Exchange mission to review the draft law on marine fisheries and mariculture with a view to adopt the Law by end of 2023. In April 2023, the Ministry of Agriculture, Forestry and Water Management (MAFWM) adopted secondary legislation on the technical conditions applicable to the place of first sale of fish and fisheries products and the conditions and method of sale.

Concerning **administrative capacity**, the MAFWM hired one additional member of staff in its Directorate for Fisheries, Department for Structural Measures, Market and State Aid. The ecologic and social feasibility of a port construction in Ulcinj continued.

As regards **resource management**, the MAFWM's Directorate for Fisheries, in cooperation with the Institute of Marine Biology, implemented activities set out in the 2022 annual data collection programme on Montenegrin fisheries, for both commercial catches and biological data. The said programme continued in 2023. The development of management plans for demersal and pelagic resources, as well as certain types of small coastal fisheries (beach seines) is ongoing. In the area of **fleet management**, through the first grant support for investments in fishing vessels, including fishing equipment and electronic devices, three vessels were successfully acquired (MIDAS 2 project). As an outcome of the second call that was launched in March 2023, 9 new applications for the support were received.

Regarding **inspections and control**, the Directorate for Fisheries set up the electronic licensing system for sport and recreational fishing at sea. Montenegro is currently developing new functionalities within the existing subsystems of the Fisheries Information System related to gathering socio-economic data in fisheries. Equipping ten landing places with devices for measuring and registering catches is underway. Dialogue continued with Albania to harmonise the management of the joint European eel resources and on control of illegal, unreported and unregulated fishing. In February 2023, the two countries signed an agreement on the joint management of fisheries on Lake Skadar and in the Bojana river. The next step in the process is the formation of a joint committee and harmonisation of legislation for managing common fisheries resources. There were no developments in the areas of **structural action, market policy and State aid**.

Montenegro remained a reliable partner in **international fora**. Work on implementing the EU Strategy for the Adriatic and Ionian Region (EUSAIR) continued, especially on implementing the first pillar of the EUSAIR related to blue growth, jointly coordinated by Montenegro and Greece. Montenegro also continued its cooperation with the General Fisheries Commission for the Mediterranean (GFCM). Montenegro is encouraged to promote

regional cooperation with partner countries in the Adriatic-Ionian. Montenegro needs to fully implement a significant number of GFCM recommendations particularly on the Adriatic small pelagics multiannual plan and the European eel recommendation. In addition, Montenegro should work to reduce by-catch of sensitive species and should promote the use of selective gear.

## **Chapter 22: Regional policy and coordination of structural instruments**

*Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU acquis elements such as environmental or public procurement legislation.*

Montenegro is **moderately prepared** in the area of regional policy and coordination of structural instruments. **Limited progress** was made over the reporting period, particularly in respect of key decisions yet to be reached on the institutional framework for preparing future cohesion policy programmes and on administrative capacity, which requires strengthening. The 2022 recommendations remain valid.

In the coming year, Montenegro should in particular:

- update and restart implementation of the action plan to meet requirements under EU cohesion policy;
- safeguard Instrument for Pre-accession Assistance (IPA) funds more effectively by increasing and consolidating the administrative capacity of central, regional and local bodies and put in place a structure to manage the administration of future cohesion policy funds; strengthen capacity in procurement, management and monitoring of capital investment, while also strengthening existing coordination mechanisms;
- work on a credible pipeline of projects, along with a framework for strategic sectoral orientations and policies, while improving project preparation, procurement and implementation in line with EU and international standards.

**Regarding the legislative framework**, on 27 December 2022, the Parliament adopted Amendments to the Public Procurement Law, in force as of January 2023. Amendments to the Law on the Budget and Fiscal responsibilities were adopted on 28 February 2023

On the **institutional framework**, limited progress was made. According to the action plan for Chapter 22, the work on the Law on European Structural and Investment Funds, which is to formalise and lay down the institutional framework, is ongoing while the adoption is only planned for Q3 2024. However, the EU Regulation setting up IPA III for 2021-2027 emphasised the importance and urgency of laying down such framework. The institutional set-up and the system for managing IPA funds under indirect management still need to be adapted to IPA III requirements. Decisions on the appointment of institutions and bodies that will implement IPA III need to be urgently formalised, taking into account these institutions and bodies' future role in cohesion policy. In March 2023, the government set up the working group for Chapter 22 again to revamp the work on fulfilling the remaining obligations under Chapter 22.

In the area of **administrative capacity**, Montenegro must strengthen its resources for procurement, contract management, preparation and implementation of key structural

reforms. Montenegro continued its staff retention policy and maintained the salary supplement for staff in the IPA structure. To build capacity and motivate staff, the hiring and retention of staff should be based on merits and a transparent recruitment process, and for ministries' management boards to provide clearer strategic directions. Training programmes continue to be needed for further capacity development in the IPA structure. By the deadline of end-December 2022, Montenegro contracted only 76.41% of the 2018 IPA allocation for indirect management. The pace of procurement by entrusted contracting authorities remains suboptimal with only 6.31% of 2020 IPA funds contracted by the end of 2022. The contracting rate for the IPA II indirect management stands at 81.29%. Preparatory activities to disburse 2021 IPA funds are slow. Coordination between contracting authorities and line ministries needs strengthening. Investment in resources must be stepped up, by ensuring that recruitment and retention are based on quality and merits, and by providing targeted training. The capacity of indirect management structures still needs to be strengthened to ensure they are compatible for an *ex post* control environment.

In the area of **monitoring and evaluation**, regular activities continued in line with IPA procedures. On **financial management, control and audit**, the Audit Authority appointed its Auditor General in Q4 2022.

### **Chapter 33: Financial and budgetary provisions**

*This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.*

Montenegro has **some level of preparation** regarding EU financial and budgetary provisions. **Some progress** was made in meeting last year's recommendations, mostly in aligning the legal basis for the underlying policy areas affecting the own-resources system, notably taxation, and in strengthening the coordination and management of EU own resources in the Ministry of Finance and other institutions.

In the coming year, Montenegro should in particular:

- strengthen the administrative capacity of the Directorate for Coordination and Management of EU Own Resources and of all other institutions involved in the own-resources system, notably by developing organisational and procedural links between these institutions;
- fully implement the improvements to the IT system of the Revenue and Customs Administration enabling a full audit trail and reporting on customs duties;
- adopt implementing legislation on collection of debts on movable and immovable property and procedures for writing off uncollectible customs debt and start their implementation.

There was some progress in the underlying policy areas indirectly affecting the own-resources system (*for progress in these areas, see Chapters 16: Taxation, 18: Statistics, 29: Customs union, and 32: Financial control*).

On **traditional own resources**, the analysis of accounting rules continued, and progress was made on marking and identifying income. Simulation exercises were organised for accounting and reporting of observed cases of fraud and irregularities. Fraud reporting in

accordance with the own resources database (OWNRES) requirements was improved by preparing several reports on seized goods. Several improvements to the IT system of the Revenue and Customs Administration were introduced, more specifically for generating reports related to A and B accounts. These improvements included a complete audit trail from the determination of the claim to its payment, subsequent control, administrative procedures and all other steps related to the collection of all customs duties on behalf of the European Commission. However, these improvements are yet to be fully implemented. Montenegro is preparing implementing legislation on compulsory collection of debt on movable and immovable property in line with the Law on tax administration. Instructions for writing off customs debt in conformity with the new Customs Code adopted in July 2022 have yet to be finalised. A manual on recognition and write-off of uncollectible customs debt, interest and penalties is pending approval, in order to align national legislation with the EU *acquis*.

As regards **VAT-based resources**, in December 2022, the Law on VAT was amended to further align the VAT system with the EU *acquis*, notably on energy import.

In the area of **gross national income-based resources**, Montenegro's GDP is calculated using the European system of national and regional accounts 2010 methodology.

As regards **administrative infrastructure**, the Directorate for Coordination and Management of EU Own Resources in the Ministry of Finance continued to improve its capacity, focusing on planning, coordination, calculation and administrative conditions of own resources. However, it is necessary to substantially strengthen all institutions involved in the own-resources system, notably by developing organisational and procedural links between these institutions. Implementation of the government own resources action plan is ongoing.

## **CLUSTER 6: EXTERNAL RELATIONS**

There are two chapters in this cluster, namely Chapter 30: External relations, which was provisionally closed in June 2017, and Chapter 31: Foreign, security and defence policy, where the single closing benchmark (concerning Montenegro's bilateral immunity agreement with the United States) has yet to be fulfilled.

Montenegro is invited to continue legislative alignment where necessary, and is also encouraged to implement actions under the Common Regional Market, based on the EU rules.

### **Chapter 30: External relations**

*The EU has a common commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules in the field of humanitarian aid and development policy.*

Montenegro has achieved a **good level of preparation**. During the reporting period, **limited progress** was achieved, mainly in the field of regional cooperation. While the parliament voted on ratifying Common Regional Market agreements on the freedom of movement based on identity cards, on recognition of professional qualifications for regulated professions, and on recognition of academic qualifications, the laws were not signed by the president. Amendments to the country's legal and institutional framework on development and humanitarian aid have yet to be adopted. Montenegro should continue working on this chapter in accordance with its overall action plan on external relations. The recommendations from last year remain valid.

In the coming year, Montenegro should in particular:

- continue to actively participate in the implementation of measures under the Common Regional Market action plan for 2021-2024 and ensure constructive participation in the negotiations on Additional Protocol 7 to the Central European Free Trade Agreement (CEFTA) on dispute settlement;
- adopt amendments to the Laws on international development cooperation and international humanitarian assistance.

As regards the **common commercial policy**, Montenegro continued to coordinate its positions with those of the EU, including in the World Trade Organization.

Montenegro continued to participate actively in CEFTA working groups, including in the negotiations on CEFTA Additional Protocol 7 on trade dispute settlement. In April 2023, the Parliament ratified three agreements of the Common Regional Market concerning freedom of movement based on identity cards, recognition of professional qualifications for regulated professions (medical doctors, dentists and architects), and recognition of academic qualifications. However, the agreements were not signed by the president.

In May 2023, the government established the Trade Facilitation Council, which will be in charge of planning and coordinating reforms of Montenegrin administration in the field of trade and trade facilitation. The Council will monitor the implementation of WTO Trade Facilitation Agreement, CEFTA Additional Protocol 5 and other bilateral and multilateral agreements. It will also manage the loan agreement with International Bank for Reconstruction and Development for establishment of a single window in cross-border trade.

Legislation on **dual-use goods** is in force and aligned with EU rules. Montenegro's application process to join the Wassenaar Arrangement is ongoing. The application for membership in the Australia Group is still in preparation.

Montenegro is still preparing implementing legislation to the Law on the Investment and Development Fund, which regulates the issuing and financing of export credits. The implementing legislation will address the issue of export credit insurance against non-market risks. The Investment and Development Fund did not issue any credits yet.

Montenegro has 24 bilateral investment treaties in force, 15 of which are with EU Member States.

In December 2022, the government launched negotiations with Hungary on an agreement on mutual protection and promotion of investment. The Montenegrin Bilateral Investment Treaty model serves as a basis for these negotiations.

Regarding **bilateral trade agreements**, in November 2022, the government launched negotiations with Ukraine to amend the Free Trade Agreement concerning rules of origin and methods of administrative cooperation. In March 2023, the Parliament ratified the Agreement on Economic Cooperation with South Korea.

The negotiations for an Agreement on Trade, Partnership and Cooperation between Montenegro and the United Kingdom of Great Britain and Northern Ireland continued. In these negotiations, Montenegro should avoid any violation of its obligations under the Stabilisation and Association Agreement.

In the area of **development policy and humanitarian aid**, Montenegro has yet to adopt amendments to the Law on international development cooperation and international humanitarian assistance, aiming to improve and update the country's legal and institutional

framework in these areas. A database on donor support projects that would use the OECD Development Assistance Committee methodology has yet to be developed.

### **Chapter 31: Foreign, security and defence policy**

*Member States must be able to conduct political dialogue under the EU foreign, security and defence policy, align with EU statements, take part in EU actions, and apply agreed sanctions and restrictive measures.*

Concerning EU foreign, security and defence policy, Montenegro has a **good level of preparation**. **Good progress** was made as the country continued its track-record of full alignment with the EU EU's common foreign and security policy (CFSP), including with the EU restrictive measures following Russia's war of aggression against Ukraine and has provided assistance to Ukraine. As a member of the Human Rights Council, Montenegro has been actively engaged in promoting and defending international law, the UN Charter and the rules-based international order. In line with the Declaration of the EU – Western Balkans Summit of December 2022, Montenegro needs to make further efforts on closing space for foreign interference and information manipulation, including disinformation. Montenegro continued to participate in EU crisis management missions and operations under the common security and defence policy (CSDP).

In the coming year, Montenegro should, in particular:

- maintain its full alignment with the EU foreign, security and defence policy.
- improve implementation and enforcement of restrictive measures, including preventing attempts to use its territory for their circumvention,
- make further efforts to close space for foreign interference and information manipulation, including disinformation, and take actions towards building resilience against all forms of hybrid threats.

The **political dialogue** between the EU and Montenegro on foreign and security policy issues continued, including through Montenegro's active engagement in the EU-Western Balkans informal CFSP Dialogue at political directors' level. In March 2023, Montenegro participated at ministerial level at the first Schuman Security and Defence Forum and in May 2023 in the working lunch with members of the Foreign Affairs Council. The institutional framework enabling Montenegro's participation in the EU CFSP and CSDP is in place. Ministry of Foreign Affairs has appropriate structures to participate in the **CFSP** while the Ministry of Defence deals more specifically with the common security and defence policy (CSDP).

In the reporting period, Montenegro maintained its 100% **alignment with the EU common foreign and security policy**, including all EU restrictive measures targeting Russia and Belarus. This is a strong signal of Montenegro's strategic commitment to the EU path. In March 2023, Albania, North Macedonia, Kosovo and Montenegro launched the informal 'Western Balkan QUAD – 100% alignment with EU CFSP' a platform aimed at facilitating their full alignment with the EU's CFSP. Montenegro provided assistance to Ukraine and to Ukrainians staying in Montenegro. Montenegro also aligned with the EU position in UNGA when voting on resolutions regarding Russia's war of aggression against Ukraine and its humanitarian impact and on initiatives in the UN Human Rights Council with regard to the human rights situation in China or Iran.

On **sanctions implementation**, the government adopted four decisions on the practical implementation of restrictive measures against Russia and established a co-ordination body to monitor the implementation of international measures following Russia's aggression against

Ukraine. However, implementation and enforcement remained mixed, in part due to limited administrative capacity and the need to update Montenegro's legal framework. Montenegro needs to continue to strengthen its capacity to implement and enforce the sanctions in place, including by adopting the draft Law on international restrictive measures to strengthen the national system for the enforcement.

Montenegro continued **co-operation with international organisations** (UN, OSCE and Council of Europe) and remained an active member of NATO. The country maintains a bilateral immunity agreement with the United States, granting US citizen's exemptions from the jurisdiction of the International Criminal Court. In doing so, the country does not comply with the EU common positions on the integrity of the Rome Statute or related EU guiding principles on bilateral immunity agreements. Alignment with the relevant EU position is therefore needed.

Concerning **conflict prevention**, during the reporting period, the Ministry of Foreign Affairs fulfilled all obligations in accordance with the OSCE Conflict Prevention Centre Implementation Calendar in the area of arms control. In the second half of 2022, Montenegro held the chair of the Sub-regional Consultative Commission of the Agreement on Sub-Regional Arms Control, Annex 1-B, Article IV of the General Framework Agreement for Peace in Bosnia and Herzegovina. Montenegro continued supporting EU measures and documents on **conflict prevention**.

Regarding **non-proliferation**, Montenegro remained actively engaged in the implementation of the Western Balkans **Small Arms and Light Weapons** (SALW) Roadmap and implemented its 2019-2025 strategy and action plan for combating illegal possession, misuse and trafficking of SALW. Montenegro is a state party to 29 international agreements in the field of CBRN and proliferation threats and risks. It is member to the Arms Trade Treaty, and is in the process of joining the Wassenaar Arrangement (WA). In relation to the accession to the Australian Group (AG), a formal application that will contain detailed information on the legislative framework and export control policy is underway, as well as implementation measures relevant to the objectives of the AG. The Ministry of Foreign Affairs co-ordinated drafting a new strategic document for the period 2023-2028, for prevention, detection, suppression and protection against Chemical, Biological, Radiological and Nuclear (CBRN) threats and risks, prevention and suppression of the proliferation of weapons of mass destruction and the means for their delivery and preventing them from falling into the hands of non-state actors.

In the area of **security and defence**, the implementation of the defence strategy and related action plan adopted in 2019 continued. In March 2023, the government adopted the final report on the Implementation of the Action Plan for the implementation of the Defence Strategy (2019-2022). In terms of **security measures**, Montenegro has continued to implement its agreement on security of information with the EU on procedures regarding exchange of classified information]

Montenegro continued contributing to **EU crisis management missions and operations** under the common security and defence policy, namely to EU NAVFOR ATALANTA.

Montenegro takes part in the European Peace Facility Balkan Medical Task Force assistance measure.

Regarding **hybrid threats**, adoption of the strategy on countering hybrid threats and related action plan is pending. Active response of the government to enhancing cyber resilience against malicious behaviour in cyberspace continued following the August 2022 cyber-attack.

## ANNEX I – RELATIONS BETWEEN THE EU AND MONTENEGRO

Within the framework of the **accession negotiations**, by October 2021, all 33 screened chapters, including chapters 23 and 24 on the rule of law, had been opened, three of which, i.e. science and research, education and culture, and external relations, have been provisionally closed.

Montenegro is participating in the **Stabilisation and Association Process**. Overall, Montenegro continued to broadly implement its obligations under the **Stabilisation and Association Agreement (SAA)**. Regular political and economic dialogue between the EU and Montenegro has continued through the SAA structures. Regular subcommittee meetings were held throughout the period. The Stabilisation and Association Committee met in January 2023 and the SA Council in July 2022. The Stabilisation and Association Parliamentary Committee met in December 2022.

Montenegro participates in the ministerial dialogue between the economic and finance ministers of the EU and the candidate countries, which aims at helping the latter to gradually meet the economic accession criteria and be better prepared in terms of economic reforms, competitiveness and job creation. The most recent meeting was held on 16 May 2023.

Montenegro has maintained its full **alignment with the EU common foreign and security policy** and has continued contributing to **EU crisis management missions and operations** under the common security and defence policy.

**Visa liberalisation** for citizens of Montenegro travelling to the Schengen area has been in force since December 2009. As part of the visa liberalisation monitoring mechanism, the Commission has been regularly assessing the progress made by the country in implementing reforms introduced under the visa roadmap. The Commission's sixth report under the Visa Suspension Mechanism adopted in October 2023 concluded that Montenegro continues to take action to address the recommendations from the previous year's report. A **readmission agreement** between the European Union and Montenegro has been in force since 2008.

The **Instrument for Pre-accession Assistance 2021-2027 (IPA III)**<sup>5</sup> continues financial support to the region and finances the Economic and Investment Plan for the Western Balkans. The **2022 annual programme** was adopted in December 2022 with an envelope of EUR 36.72 million, and three actions focusing on supporting Montenegro in its improvement of border management, reforming its public administration, and supporting further alignment with the *EU acquis*.

At the EU-WB Summit in Tirana in December 2022, the Commission put forward an **Energy Support Package** of EUR 1 billion for the Western Balkans to address immediate, short-term, and medium-term needs in the region in the context of the energy crisis and of Russian war of aggression against Ukraine. Following this announcement, a EUR 30 million budget support programme for Montenegro was adopted at the end of 2022 to cushion the energy price increase to SMEs and vulnerable households and to accelerate energy diversification.

The bilateral annual programmes are complemented by a package of multi-country and regional programmes, supporting the environmental sector, dealing with migration, social housing, as well as TAIEX and competitiveness programmes together with IFIs and IOs. Montenegro is also benefitting from the rural development programme **IPARD III** (a

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<sup>5</sup> Official Journal L 330, 20.9.2021

continuation of the IPARD II support), providing a significant contribution to the implementation of the Economic and Investment Plan for the Western Balkans and the Green Agenda. Montenegro continues to participate actively also in cross-border cooperation programmes with neighbouring countries and EU Member States (Adriatic and Danube – macro regional strategies), as well as transnational cooperation programmes and Union Programmes.

The new activities are built on and add to the closed and the few on-going programmes under **IPA II (2014-2020)**, which are providing significant support through EU integration facility, Union Programmes, the Civil Society Facility, as well as IPARD, aiming at the social and economic development of the country and improving the reform process of the Rule of Law sector, Fundamental Rights, Public Administration Reform, and other critical sectors.

The EU provides support via IPA and the Foreign Policy Instrument to strengthen Western Balkans partners' resilience to face hybrid threats including cyber and foreign information manipulation and interference.

**STATISTICAL DATA (as of 31/08/2023)**
**Montenegro**

<b>Basic data</b>	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		619 s	622 s	622 s	622 s	622 s	621 s
Total area of the country (km <sup>2</sup> )		13 812 w	13 812 w	13 812 w	:	:	:

<b>National accounts</b>	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million euro)		3 125	4 299	4 663	4 951	4 186	4 955
GDP (euro per capita)		5 050	6 910	7 490	7 960	6 740	8 000
GDP per capita (in purchasing power standards (PPS))		10 319	13 518	14 588	15 698	13 436	15 538
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		41.4	46.1	48.2	50.1	44.7	47.8
Real GDP growth rate: change on previous year of GDP volume (%)		2.7	4.7	5.1	4.1	- 15.3	13.0
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	:	:	:	:	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		9.2	8.4	8.2	7.9	9.1	8.0
Industry (%)		14.6	11.3	12.5	11.9	13.5	12.5
Construction (%)		5.9	6.9	7.0	7.9	7.3	5.8
Services (%)		70.2 s	73.5 s	72.4 s	72.2 s	70.0 s	73.8 s
Final consumption expenditure, as a share of GDP (%)		103.9	93.2	91.9	89.2	103.8	92.7
Gross fixed capital formation, as a share of GDP (%)		21.6	26.9	29.2	27.3	27.9	22.1
Changes in inventories, as a share of GDP (%)		0.1	3.3	2.7	4.7	3.3	4.5
Exports of goods and services, relative to GDP (%)		37.0	41.1	42.9	43.8	26.0	42.8
Imports of goods and services, relative to GDP (%)		62.7	64.5	66.7	65.0	61.0	62.2
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

<b>Business</b>	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)		112.8	93.0	113.7	106.6	105.8	110.3
Number of active enterprises (number)		:	:	:	:	:	:
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	7.1 w	11.2 w	11.2 w	8.5 w	11.4 w
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	5.4 w	4.8 w	3.3 w	4.7 w	4.9 w

People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		:	:	:	:	:	:
Value added by SMEs (in the non-financial business economy) (EUR million)		:	:	:	:	:	:
Total value added (in the non-financial business economy) (EUR million)	1)	1 870 w	1 780 w	2 021 w	2 205 w	1 819 w	2 164 w

<b>Inflation rate and house prices</b>	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)		:	2.7 d	2.6 d	0.5 d	- 0.5 d	2.5 d
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

<b>Balance of payments</b>	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		:	- 692.0	- 793.0	- 707.0	- 1 091.0	- 457.0
Balance of payments current account: trade balance (million euro)		:	- 1 860.0	- 2 050.0	- 2 065.0	- 1 643.0	- 1 914.0
Balance of payments current account: net services (million euro)		:	852.0	935.0	1 019.0	176.0	956.0
Balance of payments current account: net balance for primary income (million euro)		:	89.0	55.0	56.0	66.0	103.0
Balance of payments current account: net balance for secondary income (million euro)		:	229.0	265.0	284.0	308.0	401.0
Net balance for primary and secondary income: of which government transfers (million euro)		:	22.0	34.0	49.0	51.0	66.0
**3 year backward moving average of the current account balance relative to GDP (%)		:	- 14.4	- 16.4	- 15.8	- 19.1	- 16.5
**Five year change in share of world exports of goods and services (%)		:	:	19.0	26.9	- 31.4	5.2
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		552.1 w	484.0 s	323.0 s	345.0 s	470.5 w	581.6 w
Foreign direct investment (FDI) abroad (million euro)		22.1 w	10.0	92.0	67.0	- 4.5 w	9.3 w
of which FDI of the reporting economy in the EU-27 countries (million euro)		:	- 4.6 w	78.0	1.0	- 2.0 w	- 7.8 w
Foreign direct investment (FDI) in the reporting economy (million euro)		574.2 w	494.0	415.0	412.0	466.0 w	590.9 w
of which FDI of the EU-27 countries in the reporting economy (million euro)		:	161.4 w	19.0	41.0	90.9 w	172.4 w
**Net international investment position, relative to GDP (%)		:	- 170.1 w	- 168.5 w	- 166.3 w	- 205.9 w	- 168.4 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		5.0 sw	4.7 s	4.9 s	4.8 s	6.3 s	6.8 s

<b>Public finance</b>	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)		- 3.8 w	- 5.7 w	- 4.6 w	- 2.0 w	- 10.7 ew	:
General government gross debt relative to GDP (%)	2)	40.7 w	64.2 w	70.1 ew	76.5 w	103.1 w	:
Total government revenues, as a percentage of GDP (%)		42.1 w	41.5 w	42.2 w	43.4 w	43.7 ew	:
Total government expenditure, as a percentage of GDP (%)		45.8 w	46.8 w	46.2 w	45.4 w	54.4 ew	:

<b>Financial indicators</b>	Note	2010	2017	2018	2019	2020	2021
Gross external debt of the whole economy, relative to GDP (%)		142.6 sw	160.6 s	164.7 s	167.4 s	221.6 s	191.5 s
Gross external debt of the whole economy, relative to total exports (%)		389.0 w	392.2 w	381.7 w	381.8 w	852.4 w	447.0 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		:	:	:	:	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		:	:	:	:	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:

Total credit by monetary financial institutions to residents (consolidated) (million euro)	3)	2 166.6 w	2 294.1 w	2 528.0 w	2 727.3 w	2 841.0 w	2 884.2 w
**Annual change in financial sector liabilities (%)		:	:	:	:	:	:
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)		:	:	:	:	:	:
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	4)	9.63 w	6.81 w	6.36 w	6.01 w	5.84 w	5.66 w
Deposit interest rate (one year), per annum (%)	4)	3.26 w	0.69 w	0.56 w	0.41 w	0.40 w	0.35 w
Euro exchange rates: average of period (1 euro = ... national currency)		1 w	1 w	1 w	1 w	1 w	1 w
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		416.4 w	847.1 w	1 049.8 w	1 366.7 w	1 738.5 w	1 748.8 w

<b>External trade in goods</b>	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)		1 657	2 304	2 554	2 601	2 105	2 504
Value of exports: all goods, all partners (million euro)		330	372	400	416	366	437
Trade balance: all goods, all partners (million euro)		- 1 327	- 1 932	- 2 154	- 2 185	- 1 739	- 2 067
Terms of trade (export price index / import price index * 100) (number)		99.5 sw	103.3 sw	100.7 sw	99.1 sw	102.7 sw	108.4 sw
Share of exports to EU-27 countries in value of total exports (%)		55.9 s	33.3 s	43.1 s	37.0 s	37.7 s	31.1 s
Share of imports from EU-27 countries in value of total imports (%)		41.8 s	46.5 s	47.1 s	47.0 s	44.2 s	45.7 s

<b>Demography</b>	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		2.9 b	1.5	1.2	1.0	- 0.3	- 3.4
Infant mortality rate deaths of children under one year of age (per thousand live births)		6.7	1.3	1.7	2.4	2.8	1.4
Life expectancy at birth: male (years)		73.6	73.9	74.5	74.0	73.2	70.8
Life expectancy at birth: female (years)		78.5	79.2	79.3	79.5	78.8	77.0

<b>Labour market</b>	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		65.5 w	69.3	70.5	71.8	67.2	64.7 w
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		52.9 w	58.2	59.8	60.8	55.2	54.2 w
Male employment rate for persons aged 20–64 (%)		60.7 w	65.2	66.7	67.5	61.7	59.8 w
Female employment rate for persons aged 20–64 (%)		45.4 w	51.4	52.9	54.2	48.8	48.7 w
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		36.2 w	43.7	46.6	50.1	44.2	41.1 w
Employment by main sectors							
Agriculture, forestry and fisheries (%)		:	7.9 s	8.0 s	7.1 s	7.5 s	6.4 w
Industry (%)		:	9.5 s	9.9 s	9.5 s	10.1 s	10.2 w

Construction (%)		:	7.6 s	9.0 s	9.9 s	8.3 s	6.7 w
Services (%)		:	74.1 s	72.5 s	73.1 s	73.5 s	76.7 w
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	5)	34.9 w	32.6 w	31.7 w	29.3 w	30.5 w	32.7 w
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	6) 7)	48.6 w	45.7 w	63.9 bw	66.5 w	65.6 w	63.7 w
Unemployment rate: proportion of the labour force that is unemployed (%)		19.7 w	16.1	15.2	15.2	17.9	16.6 w
Male unemployment rate (%)		18.9 w	15.4	15.3	14.7	17.5	17.1 w
Female unemployment rate (%)		20.7 w	17.0	15.1	15.7	18.4	15.9 w
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		45.5 w	31.7	29.4	25.2	36.0	37.1 w
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		15.5 w	12.5	11.4	12.0	13.4	11.0 w
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)		24.9 w	21.7	21.0	26.9	35.2	31.0 w
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		9.9 w	10.7	10.0	11.0	12.0	11.5 w

<b>Social cohesion</b>	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)		463 w	510 w	511 w	515 w	524 w	532 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		106 w	100 w	98 w	98 w	100 w	99 w
GINI coefficient		:	37	35	34	33	33
Poverty gap		:	34.0	35.3	33.1	28.2	29.5
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		6.6 w	5.4	4.6	5.0	3.6	6.7 w

<b>Standard of living</b>	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)		266.0 sw	310.0	332.0	350.0	338.0	358.0
Number of mobile phone subscriptions relative to population size (number per thousand population)		2 260.3 w	1 636.7 w	1 822.8 w	1 849.9 w	1 736.8 w	1 804.4 w
Mobile broadband penetration (per 100 inhabitants)		5.5 w	10.5 w	8.8 w	8.0 w	7.7 w	7.7 w
Fixed broadband penetration (per 100 inhabitants)		12 w	22 w	25 w	29 w	30 w	30 w

<b>Infrastructure</b>	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km <sup>2</sup> )		18.1 sw	18.0 s				
Length of motorways (kilometres)		0 zw	z	z	z	z	z

<b>Innovation and research</b>	Note	2010	2017	2018	2019	2020	2021
Public expenditure on education relative to GDP (%)		:	:	:	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)		:	0.35	0.50	0.36 sw	:	:

Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	:	:	:	:
Percentage of households who have internet access at home (%)		:	70.6	72.2	74.3	80.3	80.8

<b>Environment</b>	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)		73.6 w	62.9 w	67.1 w	64.7 w	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		338.0	263.3	259.5	258.2	280.3	265.0
Electricity generated from renewable sources relative to gross electricity consumption (%)		45.7	50.1	52.4	53.6	61.5	60.5
Road share of inland freight transport (based on tonne-km) (%)	8)	52.5 w	39.0 w	55.7 w	45.4 w	41.8 w	65.1 w

<b>Energy</b>	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		826	624	728	736	726	749
Primary production of crude oil (thousand TOE)		0	0	0	0	0	0
Primary production of solid fuels (thousand TOE)		426	335	362	396	400	371
Primary production of gas (thousand TOE)		0	0	0	0	0	0
Net imports of all energy products (thousand TOE)		298 s	420 s	334 s	365 s	280 s	340 s
Gross inland energy consumption (thousand TOE)		1 129	1 037	1 074	1 112	1 023	1 093
Gross electricity generation (GWh)		4 022	2 483	3 811	3 433	3 381	3 777

<b>Agriculture</b>	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)		221.3	256.4 p	256.8 p	257.5 p	258.0 p	255.6 p
Livestock numbers: live bovine animals (thousand heads, end of period)		:	87.0 p	83.3 p	81.4 p	77.9 p	71.2 p
Livestock numbers: live swine (thousand heads, end of period)		:	25.0 p	23.6 p	23.0 p	25.8 p	24.3 p
Livestock numbers: live sheep and live goats (thousand heads, end of period)		:	218.0 ps	216.0 ps	210.8 ps	204.4 ps	195.0 ps
Raw milk available on farms (thousand tonnes)		:	181.4 p	181.5 p	178.0 p	:	:
Harvested crop production: cereals (including rice) (thousand tonnes)		4.0	7.9 p	8.0 p	7.6 p	7.3 p	7.1 p
Harvested crop production: sugar beet (thousand tonnes)		0.0	0.0	0.0	0.0	0.0	0.0
Harvested crop production: vegetables (thousand tonnes)		31.1	41.2 p	42.3 p	40.1 p	39.4 p	40.9 p

**Source: Eurostat and/or the statistical authorities in Montenegro**

b = break in series  
d = definition differs  
e = estimated value  
p = provisional  
s = Eurostat estimate  
w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU

statistical methodology

z = not applicable and therefore equal to 0

\* = Europe 2020 indicator

\*\* = Macroeconomic Imbalance Procedure (MIP) indicator

Footnotes:

- 1) Data compiled according to NACE Rev. 1.1.
- 2) Preliminary data. The final data will be available by the end of March 2021
- 3) Loans include total banks' loans granted to non MFI residents and other claims (factoring and forfeiting, claims on outstanding bills of acceptance, guarantees and bills of exchange).
- 4) Weighted average effective interest rate, outstanding amounts, annual.
- 5) Data refer to number of employees in the public sector as a share of the total number of persons employed.
- 6) Data refer to number of employees in the private sector as a share of the total number of persons employed. Comprises data of private companies or enterprises, entrepreneurs, private households and NGO.
- 7) Break in series as previously only employees were answering this question; Since 2018 all employed persons are giving answer to this question.
- 8) Total freight traffic (national territory and international transport).

