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Montenegro 2020 Report

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Table of Contents

| | | |
|--------|---|----|
| 1. | INTRODUCTION | 3 |
| 1.1. | Context..... | 3 |
| 1.2. | Summary of the Report..... | 3 |
| 1.3 | State of play of the accession negotiations | 8 |
| 2. | Fundamentals first: political criteria and rule of law chapters..... | 9 |
| 2.1 | Functioning of democratic institutions and public administration reform | 9 |
| 2.1.1 | Democracy | 9 |
| 2.1.2. | Public administration reform | 16 |
| 2.2 | Rule of law and fundamental rights | 19 |
| 2.2.1. | Chapter 23: Judiciary and fundamental rights | 19 |
| 2.2.2 | Chapter 24: Justice, freedom and security | 42 |
| 3. | Fundamentals first: economic development and competitiveness..... | 57 |
| 3.1. | The existence of a functioning market economy | 57 |
| 3.2. | The capacity to cope with competitive pressure and market forces within the Union | 65 |
| 4. | Good neighbourly relations and regional cooperation..... | 67 |
| 5. | Ability to assume the obligations of membership | 70 |
| 5.1 | Chapter 1: Free movement of goods..... | 70 |
| 5.2 | Chapter 2: Freedom of movement for workers..... | 72 |
| 5.3 | Chapter 3: Right of establishment and freedom to provide services | 73 |
| 5.4 | Chapter 4: Free movement of capital..... | 74 |
| 5.5 | Chapter 5: Public procurement | 76 |
| 5.6 | Chapter 6: Company law | 77 |
| 5.7 | Chapter 7: Intellectual property law | 78 |
| 5.8 | Chapter 8: Competition policy..... | 79 |
| 5.9 | Chapter 9: Financial services | 82 |
| 5.10 | Chapter 10: Information society and media..... | 83 |
| 5.11 | Chapter 11: Agriculture and rural development | 85 |
| 5.12 | Chapter 12: Food safety, veterinary and phytosanitary policy | 86 |
| 5.13 | Chapter 13: Fisheries | 87 |
| 5.14 | Chapter 14: Transport policy | 88 |

| | | |
|------|--|-----|
| 5.15 | Chapter 15: Energy | 90 |
| 5.16 | Chapter 16: Taxation | 93 |
| 5.17 | Chapter 17: Economic and monetary policy | 94 |
| 5.18 | Chapter 18: Statistics | 96 |
| 5.19 | Chapter 19: Social Policy and employment..... | 98 |
| 5.20 | Chapter 20: Enterprise and industrial policy | 100 |
| 5.21 | Chapter 21: Trans-European networks | 102 |
| 5.22 | Chapter 22: Regional policy and coordination of structural instruments | 103 |
| 5.25 | Chapter 25: Science and Research..... | 105 |
| 5.26 | Chapter 26: Education and culture | 106 |
| 5.27 | Chapter 27: Environment and climate change..... | 109 |
| 5.28 | Chapter 28: Consumer and health protection | 111 |
| 5.29 | Chapter 29: Customs union | 114 |
| 5.30 | Chapter 30: External relations | 116 |
| 5.31 | Chapter 31: Foreign, security and defence policy | 117 |
| 5.32 | Chapter 32: Financial control | 119 |
| 5.33 | Chapter 33: Financial and budgetary provisions | 121 |
| | Annex I – Relations between the EU and Montenegro..... | 123 |

1. INTRODUCTION

1.1. Context

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

Chapter 8 (Competition), the final negotiating chapter for Montenegro, was opened in June 2020. Overall progress in the accession negotiations will depend on progress in the area of rule of law, as per the requirements in the Negotiating Framework. Progress towards meeting the interim benchmarks set in the rule of law chapters 23 and 24 will be key for further progress in the negotiations overall.

The public political commitment of the Montenegrin authorities to the strategic goal of European integration is regularly and consistently stated as the key priority for the country and mostly also translates to policy decisions.

The COVID-19 pandemic is a global shock that has not spared the Western Balkans. The final extent of its footprint in terms of loss of human lives and damage to the economies is still difficult to assess, but early estimates foresee a drop of between 4 and 6% of Gross Domestic Product in the region. Thousands of citizens are at risk of losing their jobs, and temporary government support measures (unemployment benefits, deferrals/waivers to tax and social security contributions, etc.) have an important fiscal impact.

While the EU is itself heavily affected by the pandemic, it has spared no time and effort to provide essential and unparalleled support to the Western Balkans. This includes financial support of more than EUR 3.3 billion for countries in the region to address the immediate health crisis and resulting humanitarian needs, as well as longer term and structural impact on their societies and economies. Given the European perspective of the Western Balkans, the EU is also treating the region as privileged partners by associating them with the Union's mechanisms and instruments. These include the Health Security Committee, Joint Procurement Agreements, Union Civil Protection Mechanism, Solidarity Fund, consular assistance in repatriation or exemption from temporary EU export restrictions of medical equipment. These and other measures have provided immediate relief and are a clear message of the EU's political commitment towards the region. The European Commission recommended that emergency measures taken in the context of the COVID-19 pandemic are proportionate, restricted to what is necessary and limited in time so that rule of law and democratic and human rights standards are respected.

1.2. Summary of the Report

Concerning the **political criteria** the reporting period was marked by tensions and mistrust between political actors and low level of trust in the electoral framework. Due to the COVID-19 pandemic parliament was inactive in the early months of 2020 and was subsequently dissolved, due to the August 30 parliamentary elections.

No political party boycotted the elections, which were contested by 11 candidate lists.

According to the preliminary findings from the Office for Democratic Institutions and Human Rights of the Organisation for Security and Cooperation in Europe (OSCE/ODIHR) the elections

were competitive and were managed transparently and efficiently, but took place in an environment highly polarized over issues of church, and national identity. The campaign was peaceful despite the frequent confrontational tone. Contestants were able to convey their messages, but OSCE/ODIHR expressed a number of concerns in relation to an undue advantage for the ruling party and unbalanced media coverage.

The elections resulted in an unprecedented change of the ruling majority composition. The new parliament should endeavour to find a broad cross-party and societal consensus and demonstrate in practice its commitment to Montenegro's EU reform agenda, which is vital for the country's progress on its EU path; as well as engage in a transparent, decisive and inclusive dialogue on the implementation of OSCE/ODIHR outstanding recommendations.

In December 2019, due to lack of quorum, the parliament enacted solely with the votes of the hitherto ruling majority some legal solutions aimed at partially addressing the recommendations of OSCE/ODIHR. The adopted changes did not significantly affect the existing electoral framework, with the exception of campaign finance. Outstanding priority OSCE/ODIHR recommendations, such as professionalism, impartiality and transparency of the election administration; candidate registration and mechanisms for authentication of credibility of voter signatures; media supervision during electoral campaign, an audit of the voter register; measures against the misuse of state resources and gender balanced political representation in the elections, remain unaddressed. Thus, review of the electoral framework in a comprehensive and inclusive manner remains pending.

The new chair of the State Electoral Commission (SEC) was appointed in March 2020. Efforts to enhance the transparency and accountability of the SEC's work need to continue. Despite cross-party agreement to hold local elections on the same day, the legal framework still provides for their conduct on a rolling basis. It remains to be decided when a new system will be implemented.

The political scene prior to the August 2020 elections was fragmented, polarised and marked by lack of genuine political dialogue. Some initial steps were taken in the course of 2019 towards re-establishing the political dialogue in Parliament with the partial participation of the opposition parties in work in the temporary parliamentary committee. However opposition members suspended their participation after the government tabled the draft Law on religious freedoms or belief for plenary adoption. The latter resulted in large-scale religious protests as of December 2019, which were temporarily put on hold in spring 2020, due to COVID-19 crisis.

The outcome of the Parliamentary elections paves the way for returning the political debate to the Parliament. Active and constructive participation by all parties is required to enhance parliamentary accountability, oversight of the executive, democratic scrutiny, better quality of legislation and to enable key appointments. In 2019 and the first half of 2020 the parliament could not secure the required 2/3 majority for important judicial appointments and therefore key functions of the judicial system are filled on an acting basis. The mandate of the Supreme State Prosecutor expired in October 2019 and his successor remains to be appointed.

There were no new developments in the political and judicial follow-up of the alleged misuse of public funds for party political purposes that took place in 2012 (the 'audio recordings affair'). With regard to the January 2019 'envelope affair', indictments were lodged for money laundering against two defendants. These cases require a credible, independent and effective institutional response.

As regards **governance**, there is a need to strengthen transparency, stakeholders' participation, and the government's capacity to implement reforms. Monitoring of the quality of strategic policy documents by the Government's General Secretariat has become structured and systemic. The government's policy on state-sponsored apartments or loans under favourable conditions raised concerns about the effectiveness of the national checks and balances system. Stakeholders' participation in both the accession and legislative processes remains to be improved.

Montenegro is moderately prepared on the reform of its **public administration**. Overall, some progress was made during the reporting period. Montenegro started the implementation of the law on civil servants. The medium-term policy-planning framework, merit-based recruitment, human resource management and rationalising of the organisation of the state administration continued to advance well. Strong political will is still needed to effectively ensure the de-politicisation of the public service, the optimisation of the state administration, and the implementation of managerial accountability.

Montenegro remains moderately prepared to apply the EU *acquis* and the European standards in the area of the **judiciary** and has made limited progress overall, namely through the continuous implementation of the ICT strategy for the judiciary. Last year's recommendations regarding the judiciary were only partially addressed. Challenges remain, in particular with regard to the independence, professionalism, efficiency and accountability of the judiciary. The decision of the Judicial Council to re-appoint seven court presidents, including the President of the Supreme Court, for at least a third term raises serious concerns over the Judicial Council's interpretation of the letter and the spirit of the Constitutional and legal framework, which limits those appointments to maximum two terms in order to prevent over-concentration of power within the judiciary. It is not in line with GRECO recommendations on the independence of the judiciary, which Montenegro is expected to comply with, in order not to reverse earlier achievements in the judicial reform.

Montenegro has achieved some level of preparation in the **fight against corruption**. It made limited progress on last year's recommendations which were only partially addressed regarding the track record on repression and prevention of corruption and a new institutional framework for the Asset Recovery Office. The Anti-Corruption Agency, operating under newly appointed leadership, continued to be strengthened through capacity building activities and technical assistance. However, challenges related to its independence, priority-setting, selective approach and quality of its decisions remained. The Agency is yet to demonstrate a proactive approach in all areas falling under its mandate, including on the protection of whistle blowers, the control of financing of political parties and electoral campaign, and oversight of lobbying. The track record on seizure and confiscation of criminal assets needs to be further improved. Corruption remains prevalent in many areas and a serious concern. There is a need for strong political will to effectively address this issue of concern, as well as a robust criminal justice response to high-level corruption.

Montenegro has some level of preparedness/is moderately prepared in the **fight against organised crime**. Some progress was made, including in addressing last year's recommendations, in particular as regards the creation of a centralised bank account register, a stronger capacity and professionalism of the police and an increased number of on-going proceedings on asset confiscation. An initial track record of investigations into trafficking in human beings and money laundering was established. Internal organisation and coordination of

law-enforcement agencies was further improved, as reflected in the increasing number of investigations, arrests and seizures. However, Montenegro still needs to address some fundamental and systemic deficiencies in its criminal justice system, including the way organised crime cases are handled in the courts. Some progress was made in the fight against terrorism and preventing/countering violent extremism in line with the objectives set out in the Joint Action Plan on counter-terrorism for the Western Balkans and the bilateral implementing arrangement.

On **fundamental rights**, Montenegro made some progress. The legislative and institutional framework in the area of fundamental rights is now largely in place. In July 2020, the law on life partnership of same-sex couples was enacted by Parliament, making Montenegro the first country in the region to regulate the status of same-sex couples. The capacity of human rights institutions and of the Ministry of Human and Minority Rights has been reinforced, and trust in the Ombudsperson's office is increasing. However, important challenges remain in ensuring that national legislation on human rights is effectively implemented. The reports of excessive use of force by the police and allegations of torture call for swift and effective investigations. Ethnically and religiously motivated attacks in the context of the August 2020 elections are a matter of serious concern. Further efforts are necessary to mainstream human rights across all areas of work, public policies and sectors. Disadvantaged groups, including Roma and Egyptians, and persons with disabilities continue to experience multiple types of discrimination and difficulty in enforcing their rights in administrative and judicial proceedings. Gender-based violence and violence against children remain issues of serious concern.

During the reporting period Montenegro made no progress on **freedom of expression**. Although there has been progress on the media legislation, this has been overshadowed by arrests and proceedings against editors of on-line portals and citizens for content they posted or shared on-line in the course of 2020. Important old cases of attacks remain unresolved, including the 2004 murder of the editor-in-chief of daily newspaper, *Dan*, and the 2018 shooting of an investigative journalist. Concerns also remain about national public broadcaster RTCG's editorial independence and professional standards. The media scene continues to be highly polarised and self-regulatory mechanisms remain weak. The growing volume of region-wide disinformation further polarised the society in the aftermath of the adoption of the Law on freedom of religion and during the electoral campaign.

In the area of **migration** the 2018 upward trend in the number of incoming irregular migrants was confirmed in 2019. 7,978 irregular migrants were apprehended in 2019, a 60% increase from 2018. All of the apprehended migrants expressed their intention to request asylum, which continued to put the country's reception facilities under pressure. Montenegrin authorities prevented 516 illegal entries to the country and 1514 illegal exits from the country. The Special Prosecutors Office (SPO) conducted three investigations into migrant smuggling, involving more than 40 people. The European Border and Coast Guard Status Agreement with the EU, signed in October 2019, entered into force on 1 July 2020. The implementation of the first Joint Operation under the Agreement was launched on 15 July. Montenegro must continue its efforts to cope with the migratory pressure, by further developing its international cooperation on readmission, raising its capacity to prosecute migrant smuggling networks, increasing its reception capacity and enhancing its migrants' data collection system.

As regards the **economic criteria**, Montenegro has made some progress and is moderately prepared in developing a functioning market economy. Due to lower investment growth, the economy slowed down to a more sustainable pace in 2019. Exports, in particular of services,

were growing but not enough to curb the large current account deficit. Financial sector stability has been reinforced following the bankruptcy and resolution of two local banks and the strengthening of the banking supervision framework. Labour market conditions improved, but the unemployment rate remains high, particularly among women, youth, Roma and low-skilled people. Labour activation measures and coordination between employment and social services recorded limited progress. Montenegro's economic outlook deteriorated substantially since the second quarter of 2020, as the COVID-19 quarantine measures introduced in April brought large parts of the economy to a halt. Public finances, which improved in 2019, are under significant pressure in 2020 due to fast growing costs to finance the authorities' policy response to the pandemic combined with a sharp decline in budget revenue due to lower economic activity. Meanwhile, in spite of some signs of improvement of the business environment, measures to fight against informality were delayed and there is a persistent and very large number of companies with frozen bank accounts. State-owned transport companies are not competitive and their losses are being transferred to the state. The institutional capacities of the competition and anticorruption agencies remain weak.

Montenegro has made some progress and remains moderately prepared in terms of its capacity to cope with competitive pressure and market forces within the EU. Investment in knowledge and human capital is very modest, resulting in low innovation and productivity levels of local companies. Educational outcomes need to improve across the board, as well as the provision of upskilling and reskilling measures. Several important infrastructure projects are being implemented, gradually transforming Montenegro into a net exporter of electricity and developing transport networks. Physical broadband networks are being developed by the private sector while the authorities strengthened the legislative framework. However, the economy presents a weak industrial base characterised by low value-added activities, constrained by the small size of the market and the low technological know-how of most local companies.

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

Concerning Montenegro's **ability to assume the obligations of membership**, important work on alignment and preparation for the implementation of the EU *acquis* has taken place in most areas. The country has reached a good level of preparation in areas such as company law, intellectual property law, energy, and foreign, security and defence policy. It is moderately prepared in many chapters, such as free movement of goods, agriculture and rural development as well as food safety, veterinary and phytosanitary policy. Montenegro is at some level of preparation in the areas such as environment and climate change, and social policy and employment. Good progress has been made in the areas of Social policy and employment, Financial services, Agriculture and rural development, and food safety, veterinary and phytosanitary policy and Science and research.

Looking ahead, Montenegro should focus in particular on competition policy, economic and monetary policy, statistics and financial control, and specifically on the functioning of the judiciary and freedom of expression. Strengthening the administrative capacity for ensuring the application of the EU *acquis* remains an important challenge for Montenegro. Montenegro has continued to fully align with all EU common foreign and security policy positions and declarations.

1.3 State of play of the accession negotiations

| 30 Chapters opened (with interim or closing benchmarks; date) | |
|---|---|
| Montenegro working on fulfilment of interim or closing benchmarks | <ul style="list-style-type: none"> 1 – Free movement of goods - 20/06/17 2 – Freedom of movement for workers - 11/12/17 3 – Right of establishment and freedom to provide services - 11/12/17 4 – Free movement of capital - 24/06/14 5 – Public procurement - 18/12/13 6 – Company law - 18/12/13 7 – Intellectual property rights - 31/03/14 8 – Competition policy – 30/06/20 9 – Financial services - 22/06/15 10 – Information society and media - 31/03/14 11 – Agriculture and rural development - 13/12/16 12 – Food safety, veterinary, phytosanitary services - 30/06/16 13 – Fisheries - 30/06/16 14 – Transport policy - 21/12/15 15 – Energy - 21/12/15 16 – Taxation - 30/03/15 17 – Economic and monetary policy - 25/06/18 18 – Statistics - 16/12/14 19 – Social policy and employment - 13/12/16 20 – Enterprise and industrial policy - 18/12/13 21 – Trans European Networks - 22/06/15 22 – Regional policy, coordination of structural instruments - 20/06/17 23 – Judiciary and fundamental rights - 18/12/13 24 – Justice, freedom, security - 18/12/13 27 – Environment - 10/12/18 28 – Consumer and health protection - 16/12/14 29 – Customs Union - 16/12/14 31 – Foreign, Security & Defence policy - 24/06/14 |

| | |
|--|---|
| | 32 – Financial Control - 24/06/14 33 – Financial and budgetary provisions - 16/12/14 |
| 3 Chapters provisionally closed | |
| 25 – Science and research (opened and closed 18/12/12) 26 – Education and culture (opened and closed 15/04/13) 30 – External relations: (opened 30/03/15; provisionally closed 20/06/17) | |
| 2 Chapters currently not applicable for Montenegro | |
| 34 – Institutions 35 – Other issues | |

2. FUNDAMENTALS FIRST: POLITICAL CRITERIA AND RULE OF LAW CHAPTERS

2.1 Functioning of democratic institutions and public administration reform

2.1.1 Democracy

Elections

Montenegro held Parliamentary and local elections in five municipalities on 30 August 2020, under an electoral legal framework assessed to be largely unchanged since the last elections, in the challenging context of the COVID-19 pandemic. According to international observers from the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and OSCE Parliamentary Assembly, the elections were peaceful and competitive; they were mostly run transparently and efficiently. The campaign environment was highly polarized over issues of church and national identity as well as marked by undue advantage for the ruling party and unbalanced media coverage. Numerous recommendations previously made by OSCE/ODIHR remain unaddressed, therefore political actors and relevant institutions now need to engage in a transparent, decisive and inclusive dialogue on the implementation of these recommendations to address long-standing electoral shortcomings well ahead of the next elections.

Upon the invitation of the Montenegrin authorities, ODIHR and OSCE Parliamentary Assembly deployed a limited election observation mission, due the COVID-19 pandemic context.

According to their preliminary conclusions, the elections were competitive and took place in an environment highly polarized over issues of national identity and church, with the Serbian Orthodox Church (SOC) taking an active stance during the campaign period. The campaign was peaceful despite the frequent confrontational tone.

OSCE/ODIHR and OSCE Parliamentary Assembly further noted that contestants were able to convey their messages, during the election campaign but that the ruling party gained an undue advantage through misuse of office and state resources and dominant media coverage, which further undermined the quality of information available to voters. The elections were run overall transparently and efficiently, and although COVID-19 related restrictions limited physical campaign opportunities and increased online outreach, they did not prevent voters from turning out in high numbers. The voter turnout was at record high level of 76, 6% of the electorate, only surpassed by the 2006 independence referendum. The Election Day was orderly and the process was generally transparent and well administered, while health protocols were not implemented

consistently. The election administration met legal deadlines and generally worked transparently and managed the technical aspects of the electoral preparations efficiently. The SEC held regular sessions open for observers but not to the media.

Based on the State Election Commission's (SEC) final results the three opposition-led coalitions won together 41 mandates, which, in a parliament of 81 members, constitutes the basis to form a new majority. Hitherto ruling party Democratic Party of Socialists and its junior coalition partners from the previous legislature (SD, Bosniak party and Albanian lists) got 38 seats together, except for the Croatian minority party, which for the first time will not be represented in the parliament. SDP passed the threshold, winning two mandates.

In line with the legal framework, voters and contestants can file complaints to election commissions and the courts, including appeals of SEC decisions to the Constitutional Court. According to OSCE/ODIHR the election dispute resolution system does not ensure effective remedy, due to the lack of transparency and short deadlines.

Prior to the election day, six appeals were filed to the SEC and five to the Constitutional Court which discussed four of them in closed sessions and did not publish its decisions, thus undermining transparency of the election dispute resolution process. The State Prosecutor initiated ex officio two cases related to pressure on voters in the run-up to the August 2020 parliamentary elections. Following Election Day, prosecution offices initiated investigations in nine alleged Election Day violations, including buying of voters IDs, vote buying, pressure on voters and breach of the secrecy of vote. Following the Election Day, the Basic Prosecution Office in Podgorica has indicted two persons upon suspicion of having violated free voter's will at voting and destroying voting documentation. Parliamentary elections were repeated at one polling station

The legal framework remained largely unchanged since the last parliamentary elections, with the exception of campaign finance. While it provides basic regulations for the conduct of democratic elections, gaps and ambiguities allow for circumvention, particularly in campaign finance. A number of ODIHR recommendations remain unaddressed. These include professionalism, impartiality and transparency of the election administration; an audit of the voter register and measures against the misuse of state resources; certain limitations of suffrage rights; candidate registration and mechanisms for authenticating the credibility of voter signatures; media compliance during electoral campaigns; and gender-balanced political representation in elections.

A temporary parliamentary committee for comprehensive reform of electoral and other legislation was set up in autumn 2018 as a special purpose vehicle to enable cross-party political dialogue. The committee resumed its work after a 10-month stalemate and in October 2019. In December 2019, opposition members suspended their participation in the committee after the government tabled the draft law on religious freedoms or belief for plenary adoption. This resulted in a lack of quorum and the committee's inability to complete its work.

In December 2019, the Parliament enacted, solely with the votes of the ruling majority, changes to election-related provisions of four pieces of legislation. The adopted changes do not significantly affect the existing electoral framework. In May 2020, the ruling majority submitted the draft Law on Election of MPs and Councillors for the adoption and simultaneously to the Venice Commission and OSCE/ODIHR for their opinion. The draft Law was submitted without prior cross-party agreement and a few weeks before calling the parliamentary elections. In their

joint opinion, OSCE/ODIHR and the Venice Commission assessed the draft as an overall improvement in the legal framework, underlining however the need for an open and transparent process of legislative making and a number of key recommendations.

Elections in five municipalities (Andrijevisa, Budva, Gusinje, Kotor, and Tivat) took place on 30 August, along with the parliamentary elections. Despite cross-party agreement to hold all local elections on the same day, the legal framework still provides for their conduct on a rolling basis. It is yet to be decided when a new system will be implemented. The local elections in Tivat, initially scheduled for April 2020, were postponed due to the COVID-19 outbreak. This decision was possible as April 2020 amendments to the Law on local self-government introduced the possibility to prolong the mandate of local assemblies for up to 90 days in cases of 'emergency situation', in addition to a 'state of emergency'.

Following a public call, the new chair of the SEC was appointed in March 2020, solely with the votes of the hitherto ruling majority. Capacity building of the SEC is ongoing, but efforts to enhance the transparency and accountability of SEC's work need to continue. In their preliminary findings, OSCE/ODIHR and OSCE Parliamentary Assembly concluded that SEC did not entirely fulfill its regulatory role during the parliamentary elections, leaving several important aspects, such as the verification of supporting signatures for candidate registration, the criteria for registration of the lists with national minority status, and the tabulation of results, unaddressed. It was also assessed that in some of its decisions the SEC used wide discretionary powers to interpret and implement the law. The recommendations on the epidemiological protection of voters were unclear and difficult to implement.

The public prosecution service compiled 1,142 cases following the April 2018 presidential elections, mostly related to alleged falsification of identification documents and/or of signatures. Of these, 1,134 are still in the phase of preliminary investigation. In spring 2019, the Constitutional Court ruled that the blocking of freeware and cross-platform instant messaging services on the October 2016 Election Day was unconstitutional and annulled the respective provision of the law on electronic communication.

There were no new developments in the political and judicial follow-up of the alleged misuse of public funds for party political purposes that took place in 2012 (the 'audio recordings affair'). In December 2019, the Special State Prosecution indicted a high DPS official for money laundering in the 'envelope affair'. The indictment includes six more individuals, suspected of creating a criminal organisation and money laundering. Political and judicial follow-up is still ongoing.

Parliament

In spite of some positive steps towards re-establishing political dialogue in the Parliament, some opposition parties boycotted most of parliamentary work during 2019. Limited progress was made in improving parliamentary accountability, the oversight of the executive and democratic scrutiny, and the legislative-making process. The parliament's role in overseeing the government response to the coronavirus pandemic was marginal. The 30 August elections resulted in an unprecedented change of the ruling majority composition. The new parliament should demonstrate in practice its commitment to Montenegro's EU reform agenda, step up its legislative role and oversight role, and engage in a transparent, decisive and inclusive dialogue on the implementation of OSCE/ODIHR outstanding recommendations.

Following the August 2020 parliamentary elections, the new Parliament was constituted on 23 September. The number of women Members of Parliament (MPs) decreased to 18, now accounting for 22%.

The deep political polarisation between the opposition and the ruling parties, as well as among opposition parties themselves, continued in 2019. Before the 2020 elections, there were 16 political parties represented in Parliament. Out of 81 MPs, four represented ethnic minorities, while three operated as independent MPs. Five coalitions and four political parties are represented in the new parliament's composition. Out of 81 MPs, five represent ethnic minorities

The partial return of the majority of opposition MPs did not yield the necessary qualified majority during the previous legislative term for the overdue appointment of Judicial Council lay members and the new Supreme State Prosecutor. In June 2019, the Supreme Court adopted a non-binding legal opinion stating that Parliament's decisions on the election, appointment or dismissal of public officials cannot be challenged through administrative or civil procedures. On the basis of this opinion and contrary to its first judgment recognising the regular court's jurisdiction, a basic court in a civil procedure decided in the retrial that it has no jurisdiction to examine the legality of Parliament's decision in the case of a former Radio and Television of Montenegro (RTCG) Council member. This raises concerns about the lack of legal safeguards against Parliament's decisions, jeopardising the right to effective legal remedy.

As regards Parliament's **legislative role**, participation of opposition MPs in the plenary sessions contributed to improving the quality of debate overall. However, a number of laws were adopted without proper discussion and in the absence of the opposition. Parliament's capacity to scrutinise proposed legislation for compliance with EU *acquis* is still limited. A parliamentary budget office was established in 2019 to provide general expertise to MPs on budgetary issues. There was a reduction in 2019 of the number of acts adopted via extraordinary measures, 3 legislative acts out of 97 (3% of the total), compared to 13.6 % in 2018, this reduction being largely the result of the opposition parliamentary boycott.

Further efforts are needed to ensure effective control and **parliamentary oversight** of all governance branches, also at the level of the parliamentary committees. In particular, the parliament's role in overseeing the government response to the coronavirus pandemic was limited. In 2019, 7 control hearings and 37 consultative hearings were held (compared to 30 in 2018 and 43 in 2017). A uniform and effective system for monitoring the implementation of conclusions and recommendations adopted at oversight hearings is yet to be developed. The SAI's findings continue to be addressed in a limited manner, and there is still no discussion or reporting on the implementation of major policies and legislation.

Parliament maintained a high level of transparency at administrative level. However, significant efforts are required to improve its communication and cooperation with the public, and in particular to establish a procedure for addressing citizen's complaints and petitions. The practice of MPs submitting amendments to the laws circumventing public consultations continued with, among other, changes introduced to laws on local self-government, civil servants and state employees, and tax administration. No citizen's petition was submitted to Parliament during the reporting period.

A new **code of ethics** for MPs was adopted by Parliament in July 2019 with the votes of hitherto ruling majority MPs. No complaints from members of the public, media or interested parties alleging breaches of the code of ethics have been submitted to the human rights committee. Also

in July 2019, Parliament amended its rules of procedure, introducing fines for MPs failing to participate and for longer than 30 days in parliamentary activities. The provisions have not been implemented yet. In January 2020, the parliamentary administrative committee adopted a decision determining the criteria for MPs' justified absence from parliament's plenary and committee sittings. The lack of available space in Parliament for both service staff and MPs remains an issue.

In the reporting period, Parliament did not agree to lift any MPs' immunity; a request to waive the immunity of an MP from the largest opposition alliance was rejected by Parliament in December 2019. In the same month, MPs of the same alliance were temporarily detained and suspended from parliamentary work for 15 days, after causing an incident in Parliament. Preliminary prosecutorial investigation in this case is ongoing. In September 2019, the Constitutional Court annulled the Criminal Procedure Code provision, which was applied in 2018 to issue detention orders against two MPs without their immunity being previously lifted. In the first instance proceeding, in May 2019, two of the leaders of the largest opposition alliance were sentenced to five years in prison each in the 'coup d'état' case following the lifting of their immunity. In October 2019, one of the opposition leaders was sentenced to four months of house arrest for violent behaviour in Parliament. A criminal case involving an opposition MP from the same alliance is currently ongoing in court.

The number of women MPs increased to 24 (29.63%) from 19 (23.5%) in 2018, but after the 2020 election declined to 18 MPs. Women continue to be underrepresented in high-ranking positions in Parliament as well as in party leadership positions.

The Women's Political Network, composed of women MPs from 16 political parties, presented amendments aimed at strengthening women's political participation and economic empowerment and now in line with their proposal, the new law on financing of political entities and electoral campaigns stipulates that 20% of the budgetary funds for the regular operation of parliamentary parties should be disbursed proportionately to the elected representatives of the underrepresented gender.

Shortcomings in the legal framework regulating **political parties** and their funding, including those identified by OSCE/ODIHR, persist even after the adoption of the law on financing of political entities and election campaigns in December 2019, and its subsequent amendments in April 2020. The latter allow for the allocation of social benefits during an election year in cases of war, state of emergency, epidemic or pandemic of communicable diseases. The level of budgetary political party financing is still considerably above the European average. The increase of the limit for private donations of up to EUR 5,000 for individuals and EUR 20,000 for legal entities requires a more effective control of political party financing from private sources. The Anti-Corruption Agency and the SAI monitor political party financing with limited results. Parliamentary oversight in the area was hindered by the prosecution's refusal to report to the parliamentary anti-corruption committee and attend its special session on the 'envelope affair'.

Governance

Montenegro continued to implement its national programme for EU accession. The number of ministers was reduced by two to seventeen (including only four women) in November 2019 when the Prime Minister took over the coordination of the Ministry for Sustainable Development and Tourism. This followed the minister's resignation following the dissemination of a video of

construction inspectors taking bribes from an investor. In June 2019, the government adopted a decision on the Rule of Law Council, a temporary government body chaired by the Prime Minister and tasked with monitoring the implementation of commitments under chapters 23 and 24. The decision refines the Council's composition and rules of procedure. The Council held a session dedicated to the European Commission's rule of law non-paper in December 2019 and in June 2020. In October 2019, the government established the commission for preparing the Montenegrin version of the EU *acquis*.

The government's decision to establish a National Coordination Body for Communicable Diseases to coordinate the national response to the coronavirus pandemic was met with criticism by civil society organisations, which disputed the constitutionality and legality of its decisions, notably the one on publicly disclosing the identity and addresses of persons in self-isolation.

As regards **central government bodies**, the government's Secretariat General stepped up its efforts to monitor the quality of strategic documents and implementation reports. It provided opinions for their improvement in line with the 2018 regulation on the manner and procedure for drafting, harmonising and monitoring the implementation of strategy documents and accompanying methodology for policy-making and implementation. Coordination with policy development stakeholders remains to be strengthened further.

In August 2019, the government published a list of 96 officials, including heads of judiciary and independent institutions, who were granted state-sponsored housing or loans on favourable conditions by the current government, in the absence of clear, transparent and objective criteria for their allocation. It also published its justification for such decisions. A second such list was published by a NGO containing information on state-sponsored housing and loans granted during the previous mandate of the government. Following the publication of the information and the recommendation of the Anti-Corruption Agency Council, the government formed a working group to reconsider its housing policy.

The government has continued to share information on the EU accession process in line with its public information strategy, carrying out a range of activities in several Montenegrin towns. In July, the government established a temporary body for the implementation of the public information strategy. Implementation of the 2018-2020 Open Government Partnership Initiative action plan is under way.

In December 2019, Parliament enacted the law on electronic governance as well as amendments to the law on electronic identification and signatures. The government regularly produces analysis of the state of electronic services in Montenegro, proposing concrete measures for their improvement. Through an online e-petition platform established in April 2018, five public petitions were submitted, none of which was accepted. Following a series of grassroots protests in October against the construction of hydropower plants, the government initiated negotiations on the amicable termination of contracts for constructing seven small hydropower plants in four northern municipalities. Contrary to the law on state administration, the government continues to adopt a number of laws affecting citizens' rights without ensuring proper public inclusiveness and participation. Public consultations in the legislative and policymaking process still lack the genuine and systematic inclusion of relevant stakeholders.

On **local self-government**, in May 2019, Parliament enacted amendments to the laws on local self-government and on municipal police as well as accompanying secondary legislation. These provide that recruitment to local self-governments should be conducted in line with the national

system of merit-based recruitment and use the system for electronic testing for the professional exam to work in the public administration.

Implementation of the law on local self-government delivered initial positive effects in the field of local government's financing. This increased municipalities' revenues from both personal income tax and from the equalisation fund transfers. The law was challenged by a parliamentary opposition party before the Constitutional Court. The Constitutional Court rejected the request. The transparency of municipal finances and spending needs to be considerably improved.

The mayor of Kotor, a member of the opposition, was replaced by a ruling party representative in July, following a rift in the local opposition coalition. In June 2019, the Pljevlja local assembly elected a new mayor following the resignation of the previous one. Women's political participation remains low also at local level, with only 1 out of 24 municipalities headed by a woman mayor.

Civil society

The legal, institutional and financial environment under which civil society organisations operate was further improved, in particular the rules on State funding of non-governmental organisations (NGOs). The role of civil society in the design, implementation and monitoring of public policies is recognised and promoted. However, the genuine inclusion of civil society organisations (CSOs) in the policy-making process is not sufficiently ensured in practice. An increasingly restrictive approach to public access to information remains a matter of concern.

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

The overall legal and institutional framework on freedom of expression, of association and assembly is in place. The law on Non-Governmental Organisations, amended in 2017, and its secondary legislation, which defined standardised and more transparent state funding mechanisms, have started to be implemented. However, the capacity to launch and handle grant schemes still needs to be improved and capacity varies amongst ministries. In April 2020, the Ministry of Public Administration launched public consultations to assess the implementation of the law, and set up a working group where one third of the members are NGO representatives. A law on volunteering has yet to be adopted. Further steps were taken to improve dialogue on cooperation between public institutions and civil society. The Council for the Development of NGOs, a body consisting of an equal number of state officials and CSO representatives, intensified its work in 2019. However, it still lacks visibility and outreach to local CSOs in more remote areas. The NGO strategy continued to be implemented. A final evaluation of the strategy 2018-2020 is under preparation. The process of drafting a new NGO Strategy for 2021-2023 was launched, with the participation of representatives of the civil society in the relevant working group.

Civil society continues to be actively involved in the accession process, including in the different working groups on the negotiation chapters. Its role in the accession process is recognised and promoted at political level. However, in many cases, NGOs' participation in working groups remains a formality; the lack of timely information, inclusion and openness to their recommendations prevents them from influencing the decision-making process. In February 2020, the Prime Minister launched a series of consultations with civil society, media and political stakeholders on issues of key importance for Montenegro's accession process. The initiative

resumed in May 2020 after being temporarily put on hold in March 2020 due to the coronavirus outbreak.

The amount of information classified by public institutions and withheld from the public is growing, in practice restricting the access of CSOs and the public to key policy decisions. This concern needs to be addressed as a matter of priority, including in reviewing the legal framework, to ensure civil society has genuine oversight in key policy areas. Consultations on the draft law on free access to information were temporarily suspended at the request of civil society during the coronavirus pandemic.

The 2018 controversial dismissals of prominent NGO representatives from key state institutions and regulatory bodies were deemed unlawful by court decisions issued in the course of 2019. Notwithstanding these court decisions, some of which are final, the NGO representatives' membership of the concerned bodies has not been restored.

The rules for public funding of CSOs secure a minimum of 0.5 % of the state budget to be allocated to civil society. In 2019, this budget amounted to EUR 3.7 million (compared with EUR 4 million in 2020). While the overall process has become more transparent in recent years with the recruitment of external assessors, concerns over the evaluation process persist.

The transparency of state funding has improved with the establishment of an online database of CSO projects that have received state funds since 2009.

CSOs can also access funds at local level under the law on local self-governments, but the majority of municipalities lack transparent procedures.

2.1.2. Public administration reform

Montenegro is **moderately prepared** on the reform of its public administration. Overall, **some progress** was made as one of last year's recommendations was addressed (the start of implementation of the law on civil servants. In addition, the medium-term policy planning framework, merit-based recruitment, human resource management and rationalising the organisation of the state administration continued to advance well. While strong political will is still needed to effectively address de-politicisation of the public service, ensure the optimisation of the state administration, and effective implementation of managerial accountability, including the delegation of decision-making. Two of the Commission's recommendations from 2019 remain valid.

In the coming year, Montenegro should in particular:

- draft and adopt new Public Administrative Reform (PAR) and Public Financial Management (PFM) strategies with realistic objectives, based on the results of the evaluation of the previous strategy, and assessment and the 2019 PEFA, respectively;
- continue with optimisation of the public administration through effective implementation of the plan;
- improve citizens' access to public information by finalising the Law on access to information in line with the SIGMA principles of public administration.

Public administration reform

The 2018 annual report of the **2016-2020 public administration reform** (PAR) strategy was adopted in May 2019 in line with the standards set down in the decree and methodology on strategic planning. Civil society continues to actively participate in monitoring government reforms, and they and other stakeholders have been invited to submit initial proposals towards the drafting of the planned 2021-2025 Strategy for Public Administration Reform by 1 May. **Political support** for the reforms is ensured by the work of the PAR Council, which held two sessions during the reporting period. As regards their **financial sustainability**, the reforms remain dependent on donor funding.

Medium-term policy planning and reporting system

Montenegro's medium-term **policy planning and reporting system** was further strengthened through the implementation of the decree on the method and procedure for drafting, harmonising and monitoring the implementation of strategic documents. In particular, the network for strategic planning and training for relevant staff in ministries was expanded. The General Secretariat of the government has an active role in monitoring implementation of the decree and ensuring quality control by issuing opinions on draft strategic documents, which accompany the texts when they are presented to the government for adoption. The methodology also aims to rationalise such documents and has led to a reduction in their number.

The **medium-term fiscal plan** is yet to be linked to policy planning. However, the General Secretariat of the government initiated the introduction of mid-term planning system at the level of ministries in line with the new methodology. As a pilot project, the Ministries of Economy, Sustainable Development and Tourism, and Agriculture and Rural Development also adopted mid-term work programmes, covering 2019-2021 for the first time. In April 2020, the government adopted the first reports on implementation of mid-term work programme of ministries for 2019.

Public financial management

The ongoing implementation of the 2016-2020 **Public Financial Management (PFM)** reform programme addresses some key weaknesses of the PFM system. The programme includes bringing the legal and regulatory framework into line with the EU *acquis* and updating the existing IT system for the management of the whole budget cycle. However, several key reforms are not included or were removed from the programme since adoption. They include alignment with the ESA 2010, accrual accounting, improvement of reporting on budget execution, commitment management, cash flow planning and arrears management. Specific action plans on these are pending. The pace of PFM reform implementation increased in 2019 with the implementation of several important activities, including the preparation of a mid-term budgetary framework, programme budgeting and capital budgeting.

The Public Expenditure and Financial Accountability (PEFA) assessment was implemented in 2019. It was quite positive but also identified several areas that will need to be addressed in the next PFM strategy. The public sector accounting law was adopted in November 2019; implementation of which is planned to start in 2022, after the adoption of the necessary secondary legislation.

On **budget transparency**, the government continues to systematically publish the budget proposal and the adopted budget, as well as budget execution reports. However, there is no mechanism to ensure the quality, comprehensiveness and readability of published data. Civil

society should be more systematically involved in monitoring the implementation of the PFM reform programme.

Public service and human resources management

Women are well represented at the higher levels of the Montenegrin civil service, in the areas of PAR and to some extent PFM. The Minister of Public Administration is a woman. Many of the directors-general and directors in the ministry, the head of the Human Resource Management Authority (HRMA), the General Secretary and both deputies, and the head of the CFCU are women.

The adoption of several implementing legislative acts over the reporting period enabled the full implementation of the law on civil servants and state employees. The 2020 human resource plan for the national public administration bodies and the Prime Minister's office was adopted in February 2020. A competency framework was established to ensure adequate recruitment procedures for senior civil service positions. An electronic testing system was introduced for the professional entry exam for working in the public administration, including at local level.

Regarding implementation of the 2018-2020 Public Administration Optimisation Plan, the national authorities reported that the number of employees in public administration declined by 105 at local level and increased by 49 at central level during the reporting period. In May 2019, the law on salaries of public sector employees was amended, giving a legal basis for consensual termination of employment in the public administration. In October, the government modified the decision on severance pay in the event of consensual termination of employment of public sector employees, offering attractive terms for those that sought it, as a means to encourage people to leave the administration. So far, 1,579 public employees have applied for severance payment at central level and 322 at local level. To date 282 severance payments have been approved at central level and 128 at local level.

Salary scales are publicly available, while public sector salaries remain modest. Montenegro still needs to introduce an adequate and attractive **remuneration system** for civil servants and state employees, based on clear, fair and transparent criteria. The HRMA continues to have responsibility for the **professional development** of civil servants and state employees by providing necessary training. It is also responsible for nationally accredited training in human resources, strategic planning, ethics and integrity.

Accountability of the administration

The report on **administrative proceedings** for July 2017-December 2018 was drafted using the new national methodology. It covers administrative proceedings at local level for the first time. It shows that 98% of disputes at central level and 91% at local level were settled within the deadline. The implementing legislation necessary to implement of the law on general administrative procedure was adopted. Following an analysis of the legislative framework on **free access to information**, work on a new law was started, for which the public consultation was put on hold during the COVID-19 pandemic period.

Service delivery to citizens and businesses

Montenegro adopted a **national interoperability framework** in line with the European interoperability framework. Eleven institutions have already been connected to the single information system for electronic data interchange. A law on electronic government and

amendments to the law on electronic identification and electronic signature were also adopted during the reporting period.

2.2 Rule of law and fundamental rights

2.2.1. Chapter 23: Judiciary and fundamental rights

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

Montenegro remains **moderately prepared** to apply the EU *acquis* and the European standards in this area and has made **limited progress** overall. Last year's recommendations regarding the judiciary have only been partially met. Challenges remain, in particular with regard to the independence, professionalism, efficiency and accountability of the judiciary. It is essential that Montenegro does not reverse earlier achievements in the judicial reform. Corruption remains an issue of concern and Montenegro needs to take more proactive steps to ensure maximum integrity, impartiality and accountability of the Anti-Corruption Agency. On fundamental rights, Montenegro has achieved some progress. While most legislative and institutional frameworks are now in place, further efforts are still needed to ensure the effective application and protection of human rights and alignment with EU *acquis*. Freedom of expression remains a matter of serious concern. No progress was made in implementing last year's recommendations.

Montenegro continues to implement a detailed action plan, which was adopted in 2013 prior to the opening of the accession negotiations on the chapter and subsequently updated in February 2015.

Functioning of the judiciary

Montenegro's judicial system is **moderately prepared**, with **limited progress** overall in this area. Last year's recommendations have been met only partially through the continuous implementation of the ICT strategy for the judiciary. In addition, Montenegro continues to make efforts towards the development and promotion of alternative dispute settlement. However, the results of the reforms, in particular the track record on judicial accountability remain limited. The results achieved regarding the independence and professionalism of the judiciary need to be further consolidated. Human, financial and infrastructure management has not improved.

In the coming year, Montenegro should in particular:

- ensure the effective independence and professionalism of judiciary by full and unambiguous implementation of relevant constitutional and legal provisions, in line with GRECO recommendations, in particular to effectively limit the appointment of courts' presidents to maximum two terms and take measures to strengthen the independence of the judiciary, including by abolishing the *ex officio* participation of the Minister of Justice; in the Judicial Council;
- review the disciplinary and ethical framework for judges and prosecutors to strengthen its objectivity, proportionality and effectiveness, and ensure its effective implementation;
- prepare and adopt a new strategy for rationalisation of the judicial network, which would lay down the next concrete steps leading to closure of unviable small courts.

Strategic documents

In September 2019, the government adopted the 2019-2022 judicial reform strategy and the accompanying 2019-2020 action plan, including an analysis of the effects of the preceding strategy, which however remained a factual analysis of activities without any impact assessment. In October 2019, a Council for monitoring the strategy implementation was established, composed of the main judicial institutions and of the professional associations of judges and prosecutors. CSOs have not been invited to participate in the Council's work. There are no notable delays in the implementation.

Management bodies

The Judicial and Prosecutorial Councils remain the principal bodies managing the judicial system and the careers of judges and prosecutors. Their composition and appointment procedures are broadly in line with European standards. However, according to the Council of Europe Group of States against Corruption (GRECO), outstanding issues remain with regard to strengthening the Judicial Council's independence against undue political influence, for instance the *ex-officio* participation of minister of justice. The anti-deadlock mechanism introduced by the 2018 amendments to the law on the Judicial Council continues to apply, allowing for extension of the non-judicial members' mandate until new ones are elected. Following the resignation of the President of the Judicial Council in December 2019, the Council continued to operate in incomplete composition. In July 2020, after publication of a new call for candidates in January 2020, Parliament again failed to secure sufficient majority for any of the candidates for the four non-judicial members of the Judicial Council.

The mandate of the Supreme State Prosecutor expired in October 2019 and his successor has yet to be appointed. After the first unsuccessful call for candidates, the Prosecutorial Council appointed the outgoing Supreme State Prosecutor in an acting capacity. In the second call proceedings, Parliament did not secure the qualified majority to elect the candidate proposed by the Prosecutorial Council. The Prosecutorial Council has not yet completed the appointment procedure for 11 heads of state prosecution offices, initiated in 2019. In June 2020, the Prosecutorial Council confirmed the Chief Special Prosecutor unanimously for a second mandate.

The 2020 budget of the Judicial Council increased by 20% to EUR 1.65 million from the EUR 1.37 million allocated in 2019. The 2020 budget of the Prosecutorial Council rose by 16% to EUR 670,000 (2019: EUR 561,000). The operational capacity of both Councils secretariats continues to improve, but need further strengthening. Also, both Councils still need to assume budgetary and financial management functions at central level as well as at court and prosecution office level. Technical preparations are to be finalised to gradually transfer budgetary planning and execution to courts and prosecution offices in the course of 2020, while the Ministry of Finance is yet to recognise them as budgetary units. The two Councils need to step up efforts to improve the transparency of their work, particularly by publishing fully reasoned decisions on promotions, appointments, and disciplinary cases. Concerns also remain over the professional capacity of members of both Councils, in particular those of the Judicial Council, as well as their commitment and the time devoted to the performance of their functions.

Independence and impartiality

The legal framework guaranteeing judicial independence is in place but the judiciary and the prosecution continue to be perceived as vulnerable to political interference. Reports that the government granted some members of the judiciary and prosecution, including senior members, state-sponsored apartments or loans on favourable conditions raises additional questions in this respect. The decision of the Judicial Council to re-appoint seven court presidents, including the President of the Supreme Court, for at least a third term raises serious concerns over the Judicial Council's interpretation of the letter and the spirit of the Constitutional and legal framework, which limits those appointments to maximum two terms in order to prevent an over-concentration of powers within the judiciary. It is also not in line with the recommendations of the GRECO on the independence of the judiciary, which Montenegro is expected to comply with. In June 2020, Deputy Prime Minister and Minister of Justice, following a meeting of the Rule of Law Council, issued a public statement suggesting to courts' presidents appointed beyond a second term to resign. Allegations of corruption in the Supreme State Prosecutor's office and reported unauthorised interference in the work of the Special State Prosecution require an independent and effective institutional response. In April 2020, as part of the saving measures introduced due to COVID-19 pandemic, the Government decided to reduce for the months of May and June by 50% the salaries of functionaries and civil servants in the highest remuneration groups, among which are over 200 judges and prosecutors. Decisive political commitment is needed to guarantee the full independence of the judiciary.

In January 2020, the Constitutional Court, after unsuccessful election of a new president, elected its former President as a 'presiding judge' in the interim, even though such a category is not provided for by the legal framework. The procedure for appointing the new Constitutional Court president needs to be conducted without further delay.

The random allocation of cases is ensured by the law on courts, and implemented automatically through the judicial information system PRIS. There are certain limitations on the random allocation of cases in very small courts, while PRIS has not been introduced in misdemeanour courts. In the absence of clear criteria, the practice of reallocating large numbers of cases between courts to reduce backlogs is continued (1451 cases in 2019), putting at risk the right to a lawful judge.

In December 2019, the government adopted amendments to the law on courts and the law on the State Prosecutor's Office in order to harmonise both laws with the 2018 law on judicial cooperation in criminal matters; both are pending enactment in Parliament.

One presidential pardon was granted in 2019 (there was one in 2018 and one in 2017). In June 2020, the Parliament passed a Law on Amnesty to reduce the prison sentences of some inmates by 5-15%, in order to reduce the prison overcrowding in the context of COVID-19 outbreak. While those serving sentences for some of the most serious crimes, including war crimes, aggravated murder, terrorism and trafficking in human beings, corruption and offences against sexual freedom, will not be entitled to amnesty, the latter can apply to organised crime - related offences .

Accountability

Track records on the enforcement of the codes of ethics and disciplinary accountability for judges and prosecutors remain poor. In 2019, one **disciplinary proceeding** was launched and completed before the Judicial Council disciplinary commission (2018: one proceeding initiated). This established a violation, which resulted in a 20% salary for 3 months. There were no new disciplinary proceedings against prosecutors (2018: four cases in total). During the same period, there were 14 reports of alleged violation of the **code of ethics** for judges; 12 were completed and in two cases, violations were established by the ethical commission (2018: 15 cases in total, violation established in one case). In one of these two cases the Judicial Council overturned the decision on violation upon a complaint submitted by the judge. Of 12 cases of alleged violation of code of ethics for prosecutors violation was established in 3 cases (2018: 4 cases in total, no violation established). In the first half of 2020, there were two reports of alleged violation of the code of ethics for judges and two reports of alleged violation of the code of ethics for prosecutors. Disciplinary proceedings were instituted against one judge.

The system for detecting breaches of integrity rules needs to be made more effective by ensuring due follow-up of all cases that give grounds for disciplinary responsibility. The objectivity, proportionality and effectiveness of the disciplinary framework for judges have yet to be strengthened. The approach to handling cases in both Commissions overseeing the enforcement of the codes of ethics is still inconsistent. A legal remedy against decisions of the ethical Commissions of both Councils has yet to be introduced by the law. The relevant decisions of the Prosecutorial and Judicial Councils are insufficiently motivated and case-law has yet to be developed. Although the counselling function of the ethical commissions has been strengthened within the judiciary and prosecution service, ethics and professional conduct in the judiciary and information on existing complaints mechanisms need to be promoted further.

In 2019, the Ministry of Justice's regular judicial inspection found irregularities in a misdemeanour court's register-keeping and archiving system, while no irregularities were established in the prosecutors' offices. The ministry's capacity to conduct judicial inspections remains limited, with only two judicial inspectors working on supervision of courts, prosecution

offices, notaries and public bailiffs. The judicial inspection system needs to be enforced effectively, including through more thorough and unannounced inspections.

In March 2019 amendments to the law on public bailiffs were adopted which introduced an obligation for bailiffs to submit asset declarations to the Anti-Corruption Agency. In December 2019, the revised code of ethics for public bailiffs was adopted and the new commission for ethical conduct of public bailiffs formed. The Ministry of Justice and the Public Bailiffs' Chamber started joint inspections of 18 bailiffs' offices. In total, six irregularities were found in three offices. In 2019, four disciplinary proceedings were initiated against public bailiffs, and one further so far in 2020. In two cases, disciplinary liability was established and fines imposed accordingly. In another case, a public bailiff was temporarily suspended until the end of criminal proceedings against him. Additional steps are needed to promote professional and ethical standards among bailiffs, including appropriate training.

Professionalism and competence

Montenegro has continued organising single nationwide competitions for judges and prosecutors. In 2019, 9 judges were promoted to higher-level judicial positions and 2 prosecutors were elected to higher-instance prosecution offices. Allegations of conflict of interest against some members of the Judicial Council regarding certain candidates in the 2019 competition, the manner in which the interviews with candidates were conducted; and integrity violations by candidates during the 2020 competition, point to outstanding challenges in transparent and merit-based recruitment of judges, professionalism of the Judicial Council's commission for testing; and technical preconditions for organisation of testing.

Both Councils now conduct regular assessment of judges and prosecutors under the new system of regular professional assessment. In 2019, 55 judges and 53 prosecutors were evaluated under the regular assessment procedure. The fact that all evaluated prosecutors received excellent grade raises questions over the objectivity and the overall purpose of the evaluation process. Assessment needs to be more thorough, in line with the assessment criteria revised in 2017.

Quality of justice

The 2019-2020 action plan accompanying the judicial reform strategy encompasses measures for implementing the Judicial Training Centre strategy. In 2020, the Judicial Training Centre was allocated a budget of EUR 615,593 (2019: EUR 619,000) which remains below the statutory minimum. The autonomous and self-sustainable functioning of the Centre is therefore yet to be guaranteed. However, the Centre's state budget funding is currently sufficient since a large part of its activities continue to be financially supported by the EU and other international donors. Its secretariat still employs 14 of the 19 planned posts, while the number of its implemented activities is steadily increasing. The training activities of the Centre were interrupted during the period of COVID-19 restrictions. The Centre's managerial, strategic planning and administrative capacity needs to further improve, especially following the changes in its management in December 2019. Its regular cooperation and communication with the Judicial and Prosecutorial Councils is yet to be established, especially over the organisation of initial training cycles. The role of the Centre's Programming Council has to be substantially improved as regards training needs assessment and evaluation. The Centre participates as an observer in the activities offered by the European Judicial Training Network (EJTN) but is not proactively benefiting from the expertise within the network.

Activities in the judiciary continued to harmonise jurisprudence, including with the case-law of the European Court of Human Rights. However, concerns remain over institutional disputes and divergent understanding and interpretation of human rights standards between the Supreme Court and Constitutional Court, putting at risk legal certainty and the right to a final judgement and effective legal remedy.

No progress was made in the full implementation of instructions for collecting statistical data in compliance with the guidelines of the European Commission for the Efficiency of Justice (CEPEJ). Issues also remained regarding the reliability and availability of statistical data for the judiciary in the absence of an advanced case management system. Data on the total length of proceedings is still not available. Statistical information on the performance of the judicial system is not systematically analysed, nor used for management and policy-making purposes.

In September 2019, the government adopted an updated 2016-2020 action plan for implementation of the ICT strategy for the judiciary, with some adjustments of the target dates due to certain delays in the implementation and a detailed budget breakdown. The new ICT sub-system for courts was procured in June 2019. Until the new system is put in place, the current judicial information system, PRIS, is used by all courts for case monitoring, certain aspects of case management and interaction with parties. The system still has security loopholes and does not operate consistently outside Podgorica, while the prosecution's information system is not yet sufficiently advanced.

The 2020 budget for the judiciary is EUR 39.1 million, similar to 2019. Montenegro has 51 judges (58% of whom are women) and 17 prosecutors (over 65% of whom are women) per 100,000 inhabitants, far above the European average of 21 judges and 11 prosecutors (source: CEPEJ), as well as three times as many judicial staff per inhabitants as the European average. Montenegro stands out in comparison to the region with regard to much lower collection of court fees.

A positive trend continued in **alternative dispute resolution**, with Montenegro undertaking a number of measures to strengthen and promote its use. The law on alternative dispute resolution was adopted by the government in November 2019; it provides, among other things, for compulsory recourse to alternative dispute resolution for certain types of cases. The law is yet to be enacted by Parliament. In 2019, 917 cases were referred to the Centre for Mediation (2018: 629 in total), and 403 cases were settled through mediation (2018: 107). During the same period, 2,743 cases (2018: 3,450) were submitted to the Agency for Peaceful Settlement of Labour Disputes, of which 1,258 were resolved (2018: 3,041). However, this method has yet to be used systematically in order to maximise its overall impact.

Efficiency

In 2019, 131,956 cases were pending before Montenegrin courts, 92 of which were new cases (6.9 % less than in 2018). Some 92,305 cases were resolved (5.5 % less than in 2018), while the overall case backlog fell by 2 % to 38,190. Montenegro continued to take concrete measures to reduce the backlog of old cases, which were given priority status. The number of cases older than 3 years fell by 5.5 % to 2,912. The disposition time, i.e. the average time from filing to decision, was 143 days in basis court cases (2018: 142 days) and 116 for commercial cases (2018: 107 days). Disposition time before the Administrative Court (534 days) is a cause for concern.

In April 2019, amendments to the Law on enforcement and securing of claims were adopted, aiming to align with the EU *acquis* and address some challenges in the practice of enforcement proceedings.

As regards enforcement, the clearance and recovery rates are increasing, and the backlog of enforcement cases before the courts has been reduced from 150,000 in 2016 to just around 2,500 at the end of 2019. In 2019, 61,127 cases were filed to bailiffs' offices, with 40,019 cases pending at the end the year. The centralised case management system for bailiffs continues to be used consistently, guaranteeing data reliability. The enforcement of court decisions remains a challenge.

In 2019, the Constitutional Court of Montenegro received 2,320 cases (2018: 2,291), while it resolved 1,436 cases (2018: 1,203). The trend of backlog increase continues in 2020.

The 2017-2019 mid-term strategy for the rationalisation of the courts network does not envisage any tangible and concrete rationalisation measures. With the 2019-2020 action plan accompanying the judicial reform strategy, the government committed itself to prepare an underlying analysis for rationalisation of the judicial network which is underway and should be finalised in autumn. Reform in this area should draw on the available data, conclusions from undertaken studies and cost-benefit analyses, while ensuring better overall management of human resources and judicial infrastructure, and should ultimately lead to optimisation of the judicial network and closing down of small unviable courts.

Domestic handling of war crimes cases

Implementation of the war crimes prosecution strategy is ongoing. In June 2019, a first-instance court reached a decision sentencing a defendant to 14 years of imprisonment for crimes against the civilian population in Kosovo*. The sentence was upheld by a second-instance court decision in November 2019. While the decision is final, proceedings on the defendant's motion for protection of legality are currently ongoing. Within the jurisdiction of the Special Prosecutor's Office (SPO), four cases remain in the preliminary phase of investigation concerning war crimes committed on the territories of Bosnia and Herzegovina, and Croatia. Following the signature of a memorandum of understanding with the International Residual Mechanism for Criminal Tribunals (IRMCT) in early 2019, guidelines for cooperation have been prepared on the exchange of information and evidence with IRMCT. The Montenegrin Supreme State Prosecution has signed regional cooperation agreements on war crimes cases with Croatia (2006), Serbia (2007) and Bosnia and Herzegovina (2014). In 2019 and first half of 2020, Montenegro acted upon seven letters rogatory from Bosnia and Herzegovina, three letters rogatory from Croatia and one from the Kosovo Specialist's Prosecutor's Office. Activities are also ongoing on re-examination of old cases with a view to securing revision of the final judgements. The prosecution regularly participates in regional operational meetings.

It is important to ensure that victims of war crimes have equal access to justice, in line with European and international standards, and that compensation is in line with the country's commitments. In 2019, there were 19 claims for compensation pending before the basic court of Podgorica: 17 for damages incurred due to the reduction of general life activity, fear and mental suffering, and 2 for damages incurred due to unlawful deprivation of liberty. All these claims are

* 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.

given priority by the court. By June 2020, four claims for compensation were partially upheld, awarding non-pecuniary damages in the amounts between EUR 4,500 and EUR 6,000.

A proactive approach needs to be applied, in order to effectively investigate, prosecute, try and punish war crimes in line with international standards. The judicial decisions reached in the past contained legal mistakes and shortcomings in the application of international humanitarian law. Charges of command responsibility, co-perpetration and aiding and abetting have so far not been brought.

Fight against corruption

Montenegro has achieved **some level of preparation**. It made **limited progress** in the fight against corruption, with last year's recommendations partially met with regard to track record on repression and prevention of corruption and a new institutional framework for Asset Recovery Office (ARO). The Anti-Corruption Agency (ACA) continued to be strengthened through capacity building activities and technical assistance. However, challenges related to its independence, priority-setting, selective approach and quality of its decisions remained. The Agency is yet to demonstrate a proactive approach in all areas falling under its mandate, including on the protection of whistle-blowers, the control of financing of political parties and electoral campaign, and oversight of lobbying. Track record on seizure and confiscation of criminal assets needs to be further improved. Corruption remains prevalent in many areas. There is a need for strong political will to effectively address this issue of concern, as well as a robust criminal justice response to high-level corruption.

In the coming year Montenegro should in particular:

- ensure the maximum integrity, impartiality and accountability of the ACA and remedy the shortcomings in its decision making, which were established by domestic courts;
- improve track records on repression and prevention of corruption, including by imposing effective sanctions and take concrete measures to limit the use of plea bargains to exceptional cases, in order to improve the transparency and the credibility of the judicial response to corruption through a more deterrent and consistent sanctioning policy;
- review the legal approach towards financial investigations, and asset recovery, to align it with international standards and with modern EU practices; establish an integrated approach between all the bodies involved and provide them with the necessary legal and operational tools to create the conditions for establishing a sustainable track record in this area.

Track record

A track record of investigations, prosecutions and final convictions in cases of high-level corruption has been established but remains to be further consolidated.

In 2019 the Special Public Prosecutor's Office opened investigations into high-level corruption related criminal offences in 6 cases against 15 individuals, including majority owner of a commercial bank and the bank's CEO (the 'Atlas bank affair'), director of a public company and municipality functionaries; and 1 legal entity. Further 4 investigations were opened in the first half of 2020. In 2019, 5 indictments (2018: 12 cases) were lodged for the criminal offence of high-level corruption against 38 individuals and 3 legal entities and the financial investigations have been launched in 4 cases against 29 individuals in high-level corruption cases. In the 'envelope affair' case the prosecution indicted the former mayor of Podgorica and current

adviser of the President of Montenegro for money laundering. No further indictments were lodged in the first half of 2020. In July 2020, Interpol cancelled the red notice warrant for the fugitive businessperson under investigation in the 'Atlas bank' and 'envelope' cases. Four final and enforceable judgements (2018: 4) were issued for high-level corruption in 2019 and one further against 3 individuals by mid-June 2020. No final judgements were issued against public officials.

Montenegro sent an official request to Serbia in April 2019 for the extradition of the former President of the State Union of Serbia and Montenegro, who was convicted of high-level corruption. The request is still pending with the Serbian authorities.

The track record on the **confiscation of assets** still needs to be improved. In 2019 the High Court in Podgorica ordered the temporary confiscation of assets with a total value of EUR 3,477,880 in three cases. One residential unit of 193m² was permanently confiscated in February 2020.

Montenegro has made some progress in establishing a **track record** on the prevention of corruption. In 2019, the Anti-Corruption Agency (ACA) instituted 387 proceedings before the misdemeanour courts (380 for alleged violation of the law on prevention of corruption and 7 for alleged violation of the law on financing of political entities and electoral campaigns). A total of 371 proceedings were completed, including those from previous years, in 90 % of them fines were imposed. These amounted to EUR 75,380 for violation of the law on prevention of corruption, and EUR 19,900 for violating provisions of the law on financing of political entities and electoral campaigns. The ACA further issued 40 direct misdemeanour orders, 35 for violation of the law on prevention of corruption and 5 for violation of the law on financing of political entities and electoral campaigns (2019: 19) imposing fines in the amount of EUR 21,997. In 13 cases the ACA requested seizure of material gain before the competent courts, resulting in seizures in 7 cases with a total amount of EUR 22,966.

Based on the 158 opinions (2018: 185) and 72 decisions (2018: 60) issued by the Agency in 2019 on **incompatibility of functions and conflict of interests**, 57 public officials (2019: 77) resigned from their office and from 59 functions and 4 were dismissed. In August 2020, the Administrative Court annulled the decision of the Agency that found no conflict of interest in the former Prime Minister, now President, signing in October 2016 a decision on awarding concession for construction of a small hydropower plant to the company owned by his son.

In 2019, 8,149 **income and asset declarations** were submitted to the Agency (2018: 8,004). The optional consent for accessing banks accounts for the purpose of verifying the data submitted in the declarations decreased in 2019 from 60% to 57% of public officials and from 69% to 65% of civil servants. The ACA verified 911 such reports, slightly exceeding its annual plan. It initiated 119 administrative proceedings, and established violations and irregularities in 54 decisions. Sanctions were imposed in 17 cases, 15 in the form of a warning, 1 as dismissal, and 1 in the form of a salary deduction.

The Agency investigated 31 cases of inexplicable wealth in 2019 but found no irregularities. The ACA carried out planned control and verification of 839 public officials, 20 of them high-ranking officials. In this regard, 7 misdemeanour orders were issued totalling EUR 2,252.

The ACA continued to monitor the overall compliance of relevant entities in meeting the legal obligations on the **funding of political parties and electoral campaigns**. In May 2019 the Agency published its report on the March 2019 local elections in Tuzi municipality. While it

initiated one misdemeanour proceeding against one political party for overspending, it found no major irregularities and no abuse of public resources for electoral campaign purposes. Forty-eight political parties (out of 59) submitted annual financial reports, while 44 submitted decisions regarding amounts of membership fees for 2019. All reports submitted were published on the Agency's website. The ACA instituted 5 misdemeanour proceedings for failure to submit the annual financial reports. In 2019, the Agency verified 6 reports from the biggest political parties and performed further 41 verifications of compliance with the law. In early 2020 the ACA started with preparations of its activities related to the August 2020 Parliamentary and local elections. In the run-up to the elections, ACA performed its monitoring activities. It initiated i.a. verifications of some 700 donors to political campaigns. It further initiated over 400 proceedings concerning abuse of public resources for electoral campaigns purposes and instituted 25 misdemeanour proceedings. The ACA did not impose any direct sanctions with respect to expenditures reports submitted by the contestants or published any conclusions, despite the fact that these did not correspond to ACA findings.

The State Audit Institution published positive audit reports on annual financial statements from 2018 for 18 political entities, 6 conditional reports and one negative report, whilst regularity audits resulted in 3 positive, 10 negative and 12 conditional reports.

In the context of the 'envelope affair', the ACA published the decision on the misdemeanour order of EUR20,000 against the ruling party and a request for payment of EUR47,000 to the state budget in December 2019, 10 months after it was issued.

In 2019, 3 requests for **whistle-blower** protection were submitted to the ACA (2018: 1). So far, ACA issued a negative decision in one of these cases, the other two are still under examination. The Agency further received 110 reports on threats to public interest (same number as in 2018). In 49 completed examinations of these reports, it identified a threat to public interest in 9 with respect to 9 of them. The Agency further initiated 3 *ex officio* proceedings (still ongoing) for determining the existence of a threat to the public interest and continued working on the 4 it initiated in 2018.

The ACA continued to provide support to public bodies concerning **integrity plans**. In 2019, 671 reports on implementation of the integrity plans were submitted to the Agency. The practical impact of integrity plans has yet to be assessed.

No new **lobbying certificates** were issued in 2019 (since 2014: 14). Six lobbyists and one legal entity remain registered with the Agency. Following-up and sanctioning breaches of the law remain a challenge. Low numbers continue to suggest that lobbying activities are being carried out outside the legal framework. In 2019, the ACA prepared an analysis of the legal framework in this area.

Apart from Police and Customs, there were no cases demonstrating the implementation of **codes of ethics** for members of the legislative and executive authorities. In July 2019, Parliament adopted a revised code of ethics for its members, introducing a requirement of ad-hoc disclosure when a conflict emerges between the private interest of an MP and a matter under consideration in the parliamentary procedure.

Since its establishment, the ACA submitted to the line ministers 17 non-binding legal opinions on draft legislative acts in the area of its competence. Its opinions were taken into account for 4 legislative acts, 4 legislative processes are currently ongoing, and in eight cases, the ACA

recommendations were not reflected in the final version of a legislative act. In 2019, the ACA provided its opinion on the law on financing of political entities and electoral campaigns and the law on prevention of corruption.

Institutional framework

Prevention of corruption

In July 2019, Parliament appointed the new Council of the ACA. The Council has five members, of which two are from civil society. A number of opposition and NGO representatives contested the legal interpretation of the law on prevention of corruption applied for the call, notably the requirement to pass the state exam for employment in the national administration, as specified by the law on state employees and civil servants.

Currently, 54 people are employed out of the 60 planned posts. The capacity of the ACA continued to be strengthened through capacity-building activities and technical assistance. There were further improvements to the IT system. The ACA now has real-time access to relevant databases. All data since the Agency began operating (1 January 2016) have been incorporated into its information system. The ACA continued measures on communication and awareness-raising.

Despite the measures taken and the more proactive work of the new ACA Council, challenges remain: the Agency and its staff must ensure maximum transparency, integrity, impartiality, independence, an unselective approach, and uniform and full application of relevant laws. In December 2019, Parliament appointed the ACA's director as chair of the Council of the Agency for personal data protection and free access to information. After three unsuccessful calls, the new ACA director was selected in July 2020 by the ACA Council.

The overall impact of anti-corruption measures in **particularly vulnerable areas** (local self-government, spatial planning, public procurement, privatisation, healthcare and education) still has yet to be demonstrated by tangible results. Regarding public procurement, the amendments to the law on public procurement enacted in December 2019 provide a legal basis for full implementation of an electronic public procurement system. This should improve the transparency of public procurement procedures and help to reduce corruption risks.

Law enforcement

The institutional and operational capacity of prosecutors, judges and police to fight corruption should be further improved, particularly through specialised and long-term training. Financial investigations still need to be launched systematically in parallel with criminal investigations to discover the financial structures behind criminal offences. The initial track record of cases reaching prosecution from the police and other state institutions needs to be improved and consolidated. Political influence should not be exerted on law enforcement and judicial officials by members of the executive and the legislative branch.

The Special Prosecutor's Office (SPO) has now 50 employees, including 13 Special Prosecutors and 34 civil servants. The poor office conditions of the SPO remain a matter of concern.

Legal framework

Montenegro is party to all international anti-corruption conventions, including the UN Convention against Corruption. The **legal framework and secondary legislation on**

anti-corruption are in place. Passive and active corruption are both punishable under the Criminal Code. Montenegro is encouraged to make illicit enrichment a criminal offence.

The Council of Europe Group of States against Corruption (GRECO) concluded that out of 11 recommendations on the ethics and integrity of MPs, judges and prosecutors, 8 are considered to be satisfactorily implemented and 1 partially implemented. Two recommendations (both concerning the judiciary) have not been implemented.

The new law on **financing of political entities and election campaigns**, enacted by Parliament in December 2019 only partially addressed the OSCE/ODIHR recommendations. In April 2020, the Parliament enacted an amendment to this law, providing for allocation of social benefits from the budgetary reserve in an election year, in case of a war, state of emergency, epidemic of pandemic of communicable diseases. Despite some improvements, the current legal framework still has legal gaps and conflicting provisions and does not provide for effective safeguards and sanctions against circumvention, which limits the effectiveness of oversight. All shortcomings in the existing **legal framework on political parties' financing**, including those identified by ODIHR, need to be addressed.

The implementation of the current **law on free access to information** has not helped to increase the accountability and transparency of the public service. In 2019 the total number of requests for free access to information was 5,409 (2018: 6,080) and 3,531 complaints were filed (2018: 3,248). The process of revising the law started in spring 2019, but has been put on hold due to the COVID-19 outbreak. Montenegro needs to ensure the compliance of both the legal framework and its practice with international and European standards in this area.

Fundamental rights

The legislative and institutional framework in the area of fundamental rights is now largely in place. In July 2020, the law on life partnership of same-sex couples was enacted by Parliament, making Montenegro the first country in the region to regulate the status of same-sex couples. The capacity of human rights institutions and of the Ministry of Human and Minority Rights has been reinforced, and trust in the Ombudsperson's office and the quality of its work is increasing. Decisions of the Constitutional Court further align with European and international standards. However, important challenges remain in ensuring that national legislation on human rights is effectively implemented. The reports of excessive use of force by the police and allegations of torture call for swift and effective investigations. Ethnically and religiously motivated attacks in the context of the August 2020 elections are a matter of serious concern. Further efforts are necessary to mainstream human rights across all areas of work, public policies and sectors. Vulnerable groups, including Roma and Egyptians, and persons with disabilities continue to experience multiple types of discrimination and difficulty in enforcing their rights in administrative and judicial proceedings. Women in Montenegro continue to experience inequality in accessing employment, economic opportunities, and a clear wage gap remains in the country. Gender-based violence and violence against children remain issues of serious concern. While there has been progress with regard to the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI), there continue to be incidents, hate speech and homophobic expressions against this community.

In the coming year, Montenegro should in particular:

→ ensure a better and more systematic access to justice, complaint systems and free legal aid

for victims of human rights violations and victims of crime, and vulnerable groups, such as persons with disabilities; minorities, including Roma and Egyptians; and women and children victims of violence;

- provide for swift, effective and independent investigations into allegations of excessive use of force, torture and ill-treatment by the police, hate crimes and ethnically and religiously motivated attacks in accordance with ECtHR case law;
- ensure a genuine dialogue on the Law on freedom of religion or beliefs and that the Law and its implementation fully address the respective Venice Commission's recommendations.

As regards **international human rights instruments**, no new ratifications took place in 2019. Montenegro has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) signed in October 2006 and the Protocol of 2014 to the 1930 Forced Labour Convention. Montenegro continued its dialogue with international human rights organisations and monitoring bodies, the United Nations and the Council of Europe. In 2019, the Ministry of Foreign Affairs developed a database to track the implementation of obligations and recommendations from international human right mechanisms. In March 2019, the Advisory Committee on the Framework Convention for the Protection of National Minorities adopted its Third Opinion on Montenegro. In June 2019, Montenegro reported on the implementation of the 2017 recommendations of the UN Committee on the Elimination of Discrimination against Women (CEDAW). In April 2020, the UN Special Rapporteur on trafficking in persons, especially women and children published her report on her 2019 visit to Montenegro. In April 2020, Montenegro reported on the implementation of recommendations of the UN Committee on Elimination of Racial Discrimination (CERD).

Montenegro continues to ensure a good level of cooperation with the **European Court of Human Rights (ECtHR)**. In 2019, 427 new applications against Montenegro were allocated to a judicial formation of the Council of Europe and 98 applications were pending before the Court at the end of the year. In 2019 and first half of 2020, the ECtHR found violations of the European Convention on Human Rights in eight cases with respect to inhuman treatment during detention, unlawful detention, unjustified duration of detention, duration of court proceedings, right to private and family life; and right to property. No issues with respect to execution of ECtHR judgement are reported and none of the cases against Montenegro is under enhanced supervision of execution by the Committee of Ministers.

Montenegro is not yet observer to the Fundamental Rights Agency.

As regards the **promotion and enforcement of human rights**, the Ministry of Human and Minority Rights (MHMR) continued to strengthen its administrative capacity through the creation of new positions and internal training programmes but the MHMR's overall capacity remains weak. CSOs are regularly consulted on legislative initiatives. However, cooperation between institutions and CSOs need to be further enhanced, including at the local level.

The quality of the Constitutional Court's decisions continues to improve in terms of application of human rights standards and ECtHR case law. However, the fact that regular courts do not always follow its decisions raises concerns. Public institutions' overall awareness of human rights standards slightly improved in 2019. Human rights education is not yet sufficiently

provided to public administration officials, law enforcement authorities and legal professionals. Sensitisation to human rights issues across social sectors needs to be increased.

The regulatory and institutional framework for the functioning of the Ombudsperson, accredited with a B-status by the Global Alliance for National Human Rights Institutions (GANHRI), is in place. Despite a persistent lack of staff and relatively limited resources (budget of EUR 695,322 in 2019, and of EUR 725,227 in 2020), the Ombudsperson's Office continues to have good visibility, outreach and productivity. In December 2019, Parliament confirmed, with wide political support, the appointment of a new Ombudsperson. Staff training activities and initiatives to promote the human rights of the most vulnerable groups, particularly children, continued, along with cooperation with the UNHCR to uphold protection of the human rights of migrants and asylum seekers. The national electronic database for the management of complaints was improved. Cooperation with the media and the civil society remains good overall, but additional efforts are required to further increase trust between stakeholders. In 2019, the Office received 840 complaints (2018: 889). The preliminary figures for 2020 suggest an overall increase of complaints.

As regards the **prevention of torture and ill-treatment**, the regulatory framework has been partly consolidated with the adoption of a set of implementing rules in 2019 and early 2020. A working group has been formed to prepare the amendments to the Criminal Code with regard to crimes of torture and other forms of ill-treatment. These amendments will need to address the 2018 UN Universal Periodic Review recommendation to explicitly prohibit the statute of limitations for such crimes, increase sanctions, as well as exclude the possibility of granting amnesty and pardon to public officials accused or convicted of such crimes.

Some additional measures have been taken to strengthen the effectiveness of investigations and judicial response to cases of torture and ill-treatment that however remains challenging overall.

The serious allegations of police torture of three individuals during their detention in May 2020, the excessive, unjustified and unauthorised use of force by law enforcement, communal police and private security agencies during the June 2020 events in Budva in the context of change of power in the municipality, as well as all other reports about excessive use of force by the police need to be duly investigated by the competent national authorities.

The operational capacity and visibility of the National Preventive Mechanism (NPM) were reinforced in 2019 with the provision of additional funds for promotional activities, research and monitoring. The NPM mission carried out 24 control visits to assess the conditions of detention. Further surveys on the treatment of migrants and asylum seekers were also conducted in 2019.

Concerning the **prison system and conditions**, the limited capacities of detention facilities and continued over-use of pre-trial detention for low-risks defendants and less serious crimes remain a concern. Additional measures were taken to address the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). An ethics committee was established for monitoring compliance with the provisions of the new code of ethics for civil servants and state employees of the Institute for the Execution of Criminal Sanctions. Safeguards for persons deprived of their liberty are however not sufficient and serious discrepancies remain between regulatory standards and practice. Some improvements were made to nutrition and health-care services, family visits, staffing and the working environment. However, the material conditions of detention remain poor and serious challenges in this respect have been further exposed in the context of the COVID-19 pandemic.

In June 2020, the Parliament passed a Law on Amnesty to reduce the prison sentences of some inmates by 5-15%, in order to reduce the prison overcrowding in the context of COVID-19 outbreak. Prison extensions and additional penitentiary building plans, including a prison hospital, are currently under preparation. Construction of a protective prison wall has started around the facility for short-term sentences in order to provide for better security is underway. The EU-funded technical assistance for the construction of a new prison facility in Mojkovac started in November 2019. Cooperation with civil society continued regarding prisoners with special needs, prevention of recidivism and social reintegration and personal/professional development. Progress made in rehabilitation and resocialisation of (former) detainees should be sustained. Full accessibility for persons with disabilities in prison is yet to be addressed.

On **protection of personal data**, major challenges remain in consolidating the legal and institutional frameworks, including internal control mechanisms and supervision of the processing of and access to personal information. Montenegro has not yet signed or ratified the 2018 Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. A new law on protection of personal data is in preparation with the aim of aligning it with the 2016 EU General Data Protection Regulation and the Directive on the processing of personal data for authorities responsible for preventing, investigating, detecting and prosecuting crimes. Activities to increase the capacity of the Agency for Personal Data Protection and Free Access to Information have continued but its overall capacity remains limited. The number of data protection cases brought to court remains low, while complaints lodged with the Agency have increased. The level of capacity and awareness of rights and obligations is generally low among the different state bodies, members of the public and the private sector. The COVID-19 crisis further exposed these challenges, with authorities struggling with finding the right balance between protection of health and respecting the confidentiality of personal health data and the right to private life of citizens. A list of all persons subject to measure of self-isolation was published upon decision of the National Coordination Body and positive opinion of the Agency for Personal Data Protection. In July 2020, the Constitutional Court declared the respective decision to be in violation of the Constitutional right to privacy and annulled it. The list was subsequently used by a private individual to create a mobile application allowing users to locate those in self-isolation. In April 2020, a list of more than 60 persons infected with the virus, containing their names, birth data and ID numbers, was leaked. In May 2020, an indictment has been lodged in this case against one defendant.

In the area of **freedom of thought, conscience and religion**, in December 2019 Parliament enacted the law on the freedom of religion or belief in order to regulate, among other things, the legal status of religious communities, their property and property rights over religious sites. The law declares state property rights over religious buildings and land built or obtained from state revenues, or which were owned by the state until 1 December 1918 and for which there is no evidence of ownership by the religious community. Its adoption was marred by tensions and an incident in Parliament, which led to the arrest of opposition MPs. Large scale religious rallies in support of the Serbian Orthodox Church (SOC) and protests followed, but were discontinued due to COVID-19 crisis. Further tensions arose in May and June 2020 between the SOC and its believers and the authorities following arrests and detentions of the Church's bishop and its priests for disobeying the COVID-19 preventive measures. In February 2020, the government initiated a dialogue between legal experts and the SOC, which considers itself heavily impacted by the law. In June 2020, the Government announced publicly that it had offered to the Church to suspend the application of the law until the law is reviewed by the Constitutional Court,

provided that the COS submits a motion to the Montenegro Constitutional Court. The proposal was rejected by the SOC. The dialogue with all religious groups and relevant stakeholders needs to continue in line with relevant international and European human rights standards, including the recommendations of the Venice Commission opinion on the law of June 2019. The religiously motivated attacks in the context of August 2020 elections are a matter of serious concern,

Freedom of expression

Montenegro has achieved **some level of preparation** in this area. During the reporting period Montenegro made **no progress** on freedom of expression overall. Although there has been progress on the media legislation, this has been overshadowed by arrests and proceedings against editors of on-line portals and citizens for content they posted or shared on-line in the course of 2020. The authorities have invested efforts in the new legal framework for media and inclusive additional consultations with the stakeholders. In July 2020, Parliament enacted the new law on media and the new law on public broadcaster RTCG. Some of the last-minute changes to the two laws will need to be reviewed together with the upcoming Law on audio-visual media, which is under preparation; and in the light of European standards. Important old cases of attacks remain unresolved, including the 2004 murder of the editor-in-chief of daily newspaper, *Dan*, and the 2018 shooting of an investigative journalist. The Parliament appointed a new Council of the national public broadcaster (RTCG), but concerns remain about RTCG's editorial independence and professional standards. Several court rulings in 2019 found that members of the RTCG Council and management were unlawfully dismissed in 2018. The media scene continues to be highly polarised and self-regulatory mechanisms remain weak. The growing volume of region-wide disinformation further polarised the society in the aftermath of the adoption of the Law on freedom of religion and during the electoral campaign. The authorities, including the judiciary need to be better prepared to apply the ECtHR case law on freedom of expression.

In addressing the shortcomings, Montenegro should in particular:

- investigate cases of attacks against journalists as a matter of priority;
- ensure that any individual measures taken to limit the effects of disinformation and on-line harassment or hate speech do not limit disproportionately freedom of expression and the media;
- complete the revision of the legal framework in the area of media and provide for unambiguous application of the new legislation in accordance with international and European standards.

Intimidation of journalists

Progress in addressing violence against journalists and media is still very limited. Important old cases, including the 2004 murder of the editor-in-chief of the daily newspaper, *Dan*, and the 2018 shooting of an investigative journalist, remaining unsolved. Four attacks were registered by the authorities in 2019. In 3 of those cases, indictments were lodged. Protection was offered to 2 journalists. Further cyber-attacks against media outlets were reported. The government continued to issue strong statements in support of investigations into cases of violence against journalists and media property. In spite of initial results in the investigation into the May 2018 serious attack on investigative journalist Olivera Lakic, its perpetrator and mastermind have yet to be

brought to justice. No notable progress was made in solving older cases, including the 2004 murder of the editor-in-chief of *DAN*. In April 2020, the Police, however, shed light on four cases of attacks on media property from 2011 and 2014, when five vehicles were damaged and destroyed. Two persons – minors at the time of the attacks – suspected of direct involvement in the attacks are being prosecuted under the law applicable to minors. Indictment of the leader of the criminal group suspected to be the mastermind behind these attacks has been dismissed and he was released from detention. Montenegro's Police Directorate will be the first in the region to receive capacity building on safety of journalists under an EU-funded project.

After a second-instance court annulled the verdict in the case of a journalist convicted on charges of setting up a criminal organisation and drug trafficking, which had raised concerns about journalists' ability to perform their duties professionally and without fear of legal repercussions, the renewed proceedings are currently ongoing. Although brief, the January 2020 detentions of editors of on-line portals for the alleged offence of causing panic and disorder, as a measure to fight disinformation, have the potential to set a dangerous precedent and encourage self-censorship. So, too, do the subsequent repressive measures, arrest and criminal proceedings against members of the public for their social media posts, including in the context of the COVID-19 crisis. There have been reports of undue pressure on journalists to disclose their sources from law-enforcement officials. Harassment of journalists, including use of physical force, was further reported in the course of 2020. In the run-up to the August 2020 elections, anonymous harassment of government-critical journalists intensified via a dedicated website.

The ad hoc commission for monitoring violence against media has produced six reports since September 2016 on both recent and old cases, identifying a number of shortcomings including delays in investigations. The commission has been given access to documents with un-redacted names, but difficulties in obtaining timely and complete information from the authorities persist. Its recommendations are yet to be fully implemented. While its mandate has been extended until September 2020, its funding for 2020 has been temporary suspended due to the COVID-19 crisis. Further efforts are needed to prosecute the cases effectively and without delay, not least to avoid the application of the statute of limitations. Authorities are expected to demonstrate zero tolerance for threats or attacks against the media, and should refrain from making statements that are not conducive to freedom of expression.

The broadly formulated provision on disclosure of journalistic sources in the new Law on media will need to be applied restrictively, limited to exceptional circumstances only, and in accordance with international and European standards and the case-law of the ECtHR.

Legislative environment

New laws on media and the public broadcaster RTCG were enacted by Parliament in July 2020, while the new law on audio-visual media is under preparation. The first two laws were subject to public consultations, which allowed interested parties to voice their concerns. Additional dialogue with the media community and CSOs took place in spring 2020. However, some of the last-minute changes to these two laws will need to be reviewed together with the law on audio-visual media to ensure consistency and full alignment with the EU *acquis* and relevant international standards.

In December 2019, Parliament enacted amendments to the law on public peace and order which introduce fines for not standing for the national anthem. While regulating these issues is a

national prerogative, it is important to do so in a way that avoids fuelling tensions and antagonism or restricting freedom of expression.

Implementation of legislation/Institutions

A code of ethics was adopted in 2002 and revised in 2015, its even application across the entire media community remains to be ensured. Self-regulatory bodies continued to reflect the overall polarisation of the media scene in Montenegro. There is still no uniform approach to sanctions, suggesting that ECtHR case-law and other standards are not yet sufficiently known by the judiciary. Efforts need to be stepped up to create effective self-regulatory mechanisms, with a view to improving professional standards in media reporting. In spring 2019, the Constitutional Court ruled that the blocking of freeware and cross-platform instant messaging services on the October 2016 Election Day was unconstitutional and annulled the provision of the law on electronic communication on which the measure was based.

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

While all media outlets have an obligation to act in accordance with the highest professional standards, this is particularly important for the public broadcaster. RTCG's transition from a state media organisation to a true public service broadcaster has not been completed yet. Decisions to dismiss RTCG Council members and its management in the course of 2018 raised serious concerns about their representativeness, independence and ability to operate free of undue influence and political pressure. Several of these dismissals were annulled by domestic courts in 2019. The appointment of its new Council in June 2019, has not succeeded in improving RTCG's editorial independence and professional standards. In March 2020, two journalists were subject to disciplinary proceedings for criticising on their private social media accounts a controversial documentary produced in-house and aired on RTCG. Although the proceeding did not results in sanctions, their initiation is a matter of concern.

The contract on provision of public services between the government and RTCG was signed in 2018. It requires the government to monitor the implementation of the financial commitments. The new law on the public broadcaster abolished the the financing of the public broadcaster through a contract while maintaining the current State budget allocation 0.3% of GDP for RTCG. Additional revenues will continue to be generated from marketing activities, with limitations for prime time advertising

Even though the collective agreement regulating the work of RTCG employees was signed after 3 years of collective bargaining, RTCG employees still face a number of uncertainties, mostly related to economic conditions. A joint commission should monitor implementation of the agreement and react to potential violations.

Editorial independence and professional standards need to be restored within RTCG and a legal remedy for dismissals of its Council Members by Parliament remains to be provided by a law.

Economic factors

Despite the large market share of government-critical and pro-opposition media, many media outlets are not financially sustainable. The media advertising market is small and concerns about transparency and discrimination in state advertising activities persist. This situation was further aggravated by the COVID-19 outbreak leading to a significant revenues decline for print, electronic and online media while facing increased costs of production due to the health crisis.

The Ministry of Culture provided for some emergency measures, such as exemption or postponement of financial obligations and distribution of grants in the amount of EUR 310,000, as well as provision of a credit line of up to EUR 600,000 by the Investment and Development Fund. The new Law on Media, introduced a requirement for public sector authorities at both national and local level to submit to the Ministry of Culture all the records of payments made to media outlets for advertising or other contractual services, as well as to publish them online. Annual reports on the payments made to the media by the public sector also need to be published by the Ministry of Culture. While these provisions represent a positive development, their transparent and unbiased implementation remains vital in ensuring that informal pressure on editorial policy is not exerted through the distribution of advertising funds.

Professional organisations and working conditions

The economic situation of journalists remains precarious, particularly due to job insecurity and low salaries, putting them at risk of self-censorship and owner interference, and further aggravated due to the COVID-19 outbreak. Journalists are jointly represented in Montenegro's media trade union. In 2019, after years of stagnation, the trade union succeeded in obtaining a salary increase for public broadcaster employees. The two associations that aim to foster and promote professional journalism across the polarised media scene have yet to reach their full maturity.

(See also Chapter 10 – Information society and media)

Freedom of assembly and association is guaranteed by the Constitution and provided for in law. It has been generally respected. In 2019, several protests and larger scale religious rallies were triggered by the adoption of the law on the freedom of religion or belief. They were conducted in a peaceful atmosphere overall, despite some isolated incidents. They were suspended in line with the public gatherings ban introduced during the COVID-19 outbreak. The ban has been loosened as of mid-May for public gatherings of more than 200 persons, but had to be reintroduced in June, after new COVID-19 cases were reported. Criminal proceedings were instituted against several priests and believer of SOC, including the Metropolitan of Montenegro and Litoral for failing to comply with health regulations in place.

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

Regarding **property rights**, the process of restitution of properties expropriated during the communist regime remains slow. Montenegro needs to ensure the implementation of fair restitution proceedings within a reasonable time. Several cases of alleged violations of Article 1 of Protocol No. 1 (right to property) of the European Convention on Human Rights (ECHR) are pending before the ECtHR. The new law on freedom of religion or belief, adopted in December 2019, stipulates that all religious sites that were in state possession before 1 December 1918, when Montenegro lost its statehood, are considered state property unless the church is able to provide evidence of ownership. The procedure to determine property rights over religious sites needs to fully address the relevant recommendations of the Venice Commission and provide clarification on the implementation modalities of the law.

Regarding **non-discrimination**, the number of complaints of discrimination submitted to the Ombudsperson's Office in 2019 (141), which also has the legal mandate of an equality body, remained at the level of 2018 (146). Trust in the office's contribution to the fight against

discrimination continues to increase. However, the resources allocated to the office remain insufficient. The Ombudsperson's task of collecting data on discrimination also remains challenging as not all ministries and state organs adhere to the 2014 rulebook for aggregating data on discrimination cases. Court cases remain rare and no new cases were opened in 2019. In December 2019, the Ministry for Human and Minority Rights established a working group for revising the law on prohibition of discrimination to further align it with EU *acquis*. The finalisation of the draft which was subject to public consultations has been delayed due to the COVID-19 outbreak.

On **equality between women and men**, there was some progress in the reporting period. In 2019, for the first time, a Montenegro Gender Equality Report was prepared, based on the methodology of the Gender Equality Index developed by the European Institute for Gender Equality (EIGE) for the European Union and its Member States. Montenegro's index score was 55 points, compared to an EU average of 67.4. Women continue to be underrepresented on the labour market, in entrepreneurship, policy-making and politics. In May 2019, the government adopted the report on the implementation of the Beijing Declaration and Platform for Action, and in August 2019 the 2019-2020 action plan for the implementation of United Nations Security Council Resolution 1325, Women, Peace and Security in Montenegro. In December 2019, the Parliament enacted a new Labour Law, meant to bring national law in line with the EU directives 2006/54/EC on equal opportunities in employment and 92/85/EEC on pregnant workers, although further progress still needs to be made regarding alignment to the latter directive. The legislative framework on gender-based discrimination has limited impact due to weak implementation of existing measures and insufficient prioritisation of gender equality in the overall state and public accountability mechanisms. Most institutional actors are often unaware of their legal obligations for gender mainstreaming or insufficiently trained to implement gender policies. Accountability mechanisms for achieving gender equality need to be strengthened and gender impact assessments must be implemented at all levels in the public administration. Steps in this direction were taken in 2020 by the Police Directorate and MHMR. The Judicial Training Centre and State Prosecution organised trainings on women's rights and gender equality. Sexual harassment, although prescribed as a special form of discrimination, is still not defined as a criminal offence under the law, but Ministry of Justice has formed a working group to reconsider this issue.

2019 saw a persistently high number of reported cases of **violence against women and domestic violence**, which relate to criminal offences (186 cases, of which courts resolved 106) and domestic violence misdemeanours (1,759 cases, of which courts resolved 382). The electronic database on domestic violence became operational in May 2019, providing the Ministry of Labour and Social Welfare, social welfare centres and the Ministry of Interior with an interinstitutional tool for automatic exchanges of information. The Ministry of Labour and Social Welfare has drawn up an analysis of the services to be delivered as a priority to support the victims of violence against women and domestic violence and started issuing licences to several specialised NGOs offering victim support services. However, a sustainable public financing mechanism is still needed to sustain the work of these NGOs, along with the creation of state-owned specialist centres across the country for providing care, support and advice to the victims of violence. In June 2019, the national SOS line for victims of violence was formally launched. Confinement measures imposed during the COVID-19 outbreak led to a significant increase of cases of domestic violence. The authorities, in cooperation with CSOs, responded with a campaign to raise awareness and provide help to victims, and launched a mobile phone

application through which the victims can contact the national SOS helpline. In early 2020, the Coordinating Board foreseen in the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) adopted an action plan to monitor the implementation of recommendations of the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and other measures to fulfil the obligations under the Istanbul Convention. Despite authorities' commitment and concrete measures taken, challenges remain with regard to services' response to domestic violence cases, access to justice for victims, lack of a systematic approach with regard to physical protection of victims and prosecution of registered cases, as well as overly lenient sanctions.

Concerning the **rights of the child**, in May 2019, the government adopted a new strategy for the exercise of the rights of the child (covering 2019-2023) and its action plan for 2019-2020. Sufficient resources should be allocated to enable the strategy's activities to be carried out. The role and mandate of the Council on the Rights of the Child needs to be strengthened so that it can effectively exercise its function as a coordinating mechanism at inter-ministerial level. Guidelines for the health sector response to children and adolescents who are victims of violence, intended to increase detection and reporting, were finalised in November 2019. So far progress in this area remains limited. Major challenges include insufficient national capacity to implement multi-sectoral and holistic interventions to prevent and address violence against children. The very low numbers of reported cases of sexual violence against children continue to raise concerns about under-reporting and identification of victims. Children with disabilities experience barriers in accessing quality health, education, social and child protection services and limited inclusion in society. Dedicated campaign on the mental health of children was launched in 2019. The system for licensing CSO service providers in the social protection system has been further developed to provide day-care services for children from families at risk, family outreach workers and an SOS telephone line for children. However, those services are largely project-funded and require more sustainable public financing. In March 2020, a public awareness-raising campaign against arranged child marriages was launched, in cooperation between the authorities, social services and civil society. Further efforts are needed on de-institutionalisation and child-friendly justice; to tackle child marriages and child begging; to improve support to children with disabilities and their families; and to address poverty and improve the social inclusion and health status of vulnerable children. Montenegro is encouraged to raise the minimum marriage age to 18 years of age, as recommended by CEDAW and UN Special Rapporteur on Trafficking in Persons.

Regarding the **rights of persons with disabilities**, in March 2019 the government approved the annual action plan of the strategy for the protection of persons with disabilities from discrimination and for the promotion of equality (covering 2017-2021). A dedicated working group has been created to oversee the plan's implementation. The legal and policy framework has been consolidated, albeit at a slow pace and implementing legislation is yet to be harmonised. Several laws are not fully aligned with the UN Convention on the Rights of Persons with Disabilities (CRPD) and international standards, including on the definition of disability. An action plan to follow-up on recommendations of the UN Committee on the Rights of Persons with Disabilities is being under preparation. The 2019 Labour Law includes some relevant provisions to promote the rights of persons with disabilities. Amendments to the law on professional rehabilitation and employment of persons with disabilities are not yet finalised. This has, among others, delayed validation of the rulebook on the working centres and facilities for

employment of persons with intellectual and psychosocial disabilities. The right to exercise sign language is not enshrined in the law and is a factor of discrimination in terms of accessibility to public administration and communication. The limited availability of training for sign-language interpreters and trainers in the country is a matter of concern. Concrete steps were taken in 2019 and 2020 to improve access for persons with disabilities to public facilities and institutions, but progress in treatment of socially vulnerable and persons with disabilities is insufficient. The existing legal provisions are yet to be effectively implemented to ensure the systematic enforcement of their rights. Mandatory measures to be implemented by public institutions, administrations and local authorities should be strictly monitored in key sectors such as education, transport, employment, medical and supported-living assistance, health and social protection, justice and legal protection. Access to polling stations remains a concern. Public awareness of the existing legal and protection frameworks has to be further promoted and actively reinforced. As of 1 January 2020 a new law on non-contentious proceedings is in force which has strengthened safeguards with regard to deprivation of legal capacity.

On the **rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons**, in March 2019 the government adopted a national strategy for improving the quality of life of LGBTI persons (covering 2019-2023) along with an action plan for 2019. A national team for monitoring implementation of the strategy was formed in August 2019. The Ministry of Human and Minority Rights signed a memorandum of understanding with 20 municipalities to fight discrimination based on sexual orientation or gender identity. Capacity-building activities for police officers, prosecutors and social services professionals were delivered in six municipalities. In April 2019, a Trust Team composed of members of the LGBTI community and the Police Directorate was set up to strengthen dialogue and collaboration. The Ministry of Human and Minority Rights provided grants to help maintain two LGTBI shelters. After two unsuccessful votes in Parliament, the government revised its proposal for the law on life partnership of same sex partners (same-sex partnership law) in December 2019 and the law was enacted by Parliament in July 2020. Montenegro is the first country in the region to regulate the status of same-sex couples. Overall, Montenegro should increase the capacity of the judicial system to address hate crimes and hate speech, as well as ensure such cases are duly reported, investigated, prosecuted and adequately sanctioned. Overuse of misdemeanour proceedings is reported with respect to potentially more serious cases. More than 100 complaints of discrimination, hate speech and verbal abuse in the media have been lodged in 2019, but only one person was convicted in the same year for violent LGBTI-phobic behaviour perpetrated in 2017. Awareness about the rights of LGBTI people is increasing. However, LGBTI status and rights continue to be regularly challenged, particularly in the media and social networks, including by some political and religious representatives. In September 2019, the seventh Pride Parade took place in Podgorica without incident. Despite some progress, Montenegro should increase the capacity of institutions to protect against discrimination, with special emphasis on the judicial system.

In the field of **procedural rights**, preparations are ongoing in 2020 to ensure full alignment with the EU *acquis* and European standards, notably on the rights of suspects and accused persons in criminal proceedings as well as on victims' rights. The underlying analysis have been prepared to support the working group. The length of judicial proceedings remains an issue, but revision of the legal framework is planned in in order to address this issue. A number of activities have taken place in 2019 and 2020 to raise awareness on free legal aid amongst various (vulnerable) groups. More efforts are nevertheless required to ensure access to justice, and additional measures for victims, more particularly for vulnerable groups and persons in situation of

vulnerability. Montenegro is strongly encouraged to abolish the suspension of enforcement of the law on victims' compensation until the date of EU accession and secure sufficient funds for victims support without delay.

Concerning **minority rights**, in July 2019 the government adopted the 2019-2023 minority policy strategy and an action plan for 2019-2020 with a financial allocation. The constitutional and legal framework is in place. However, it has yet to be implemented in practice, including on issues such as the right to proportional representation in public services. While there has been some improvement regarding the Fund for the Protection and Realisation of Minority Rights, the lack of monitoring and evaluation of projects receiving funding feeds into a perception that the funding process still lacks transparency. More information on funding needs to be available to the public, including project reports and evaluations, in order to ascertain that the funds were spent efficiently and transparently and that the intercultural dialogue criteria were fulfilled. The legal framework for Minority Councils may need to be reviewed regarding their establishment, legal status and gender balance. Some inter-ethnic incidents were reported in the context of the adoption of law on freedom of religion. Ethnically motivated attacks following the August 2020 elections are a matter of serious concern.

In April 2020, the government adopted the annual action plan for the implementation of the strategy for the social inclusion of **Roma and Egyptians**. The budget allocated for implementing the strategy remains insufficient and Roma-responsive budgeting needs to be given greater priority across different sectors. MHMR funding of inclusion projects increased by 60% in 2019 (to EUR 215,000 from EUR 131,000 in 2018). Montenegro signed the Western Balkan Partners Roma Integration declaration in Poznan in July 2019, which contained quantifiable commitments in key priority areas. Efforts to meet these commitments need to be stepped up. The Conclusions from the June 2018 Roma Seminar involving all the relevant stakeholders, are yet to be implemented.

The enrolment rate for Roma primary school pupils slightly increased in 2019/2020 compared to 2018/2019, compared to the higher birth rate. There is a persistent lack of data on the overall number of Roma children who should be enrolled in the education system, especially in obligatory primary education. In 2019/2020, 1,803 Roma and Egyptian children were enrolled in primary schools (1,793 in 2018/2019), only 142 in secondary school and there were 13 high school students. While drop-out rates are moderately decreasing, the overall completion rates remain dramatically low, with only 88 pupils successfully completing elementary school and only 19 completing secondary school in 2019. Twenty-one Roma mediators have been employed by the Ministry of Education since the beginning of the 2019/2020 school year to help of increase the enrolment rate of Roma and Egyptian children and reduce the dropout rate.

The number of Roma and Egyptians registered with the National Employment Bureau further decreased from 802 in 2018 to 747 in 2019 and they are by far the most underrepresented national minority group in the public service. Some targeted measures were implemented, such as the national employment bureau's active employment measures (129 Roma were temporarily employed in 2019), but their sustainability and effectiveness have yet to be ensured. In the area of health, three Roma health mediators are employed in Podgorica and two in Nikšić and Berane. Their number needs to further increase in order to facilitate access to health services, especially for displaced and internally displaced (I/DP) Roma and Egyptians who face particular difficulties in exercising their right to health protection.

Roma and Egyptians, who are mostly internally displaced persons, benefited from housing solutions under the regional housing programme, which is progressing well across Montenegro. Challenges remain for the housing of domiciled Roma and Egyptians, in particular in light of the July 2019 deadline stipulated by the law on spatial planning and construction for applications for the legalisation of illegal buildings. This cumbersome and expensive process has created difficulties for many Roma and Egyptian families. Many of them are unable to apply for legalisation, which could lead to evictions in the future, especially in the coastal area.

The preferential treatment offered by the electoral legislation to numerically small national minorities to ensure their political representation has not been extended to Roma and Egyptians. They thus have no representative in the national or local parliaments. There is still no systemic solution and institutional response to child begging and early marriages among the Roma and Egyptian communities. The Romani language is not standardised and not taught in schools. During the COVID-19 pandemic, the authorities largely relied on donors and civil society to provide support to the most vulnerable, including the Roma, without assuming a more pro-active coordination role in this respect.

With regard to **displaced and internally displaced people**, there were a total of 15,247 requests for permanent or temporary residence lodged by June 2020; 15,080 were resolved with 12,376 persons being granted permanent or temporary residence up to 3 years and 167 requests were still pending. Some 291 requests were rejected and 2,413 temporarily refused due to incomplete or double application.

On **statelessness**, since the beginning of the application of the law on foreigners in 2018, 4 travel documents and 2 temporary residence permits have been issued to stateless persons. The procedure for determining statelessness is ongoing for 9 persons. Identification of potential cases remains a challenge. However, as of October 2019 a new birth registration practice was developed in several municipalities to address the challenge of birth registration of abandoned children or those with mothers lacking identity documents, leading to a number of resolved cases.

In the **field of citizenship**, Montenegro launched its investors' citizenship scheme in January 2019 and has received 24 applications so far. Five were rejected after due diligence procedure, while for 5 applications final decisions on citizenship were issued and one passport has been issued so far in 2020 to a citizen of the Russian Federation. To the other applicants and their family members, passports have not been issued yet due to the COVID-19 outbreak and the respective travel ban. The Commission will continue to monitor closely this scheme as it poses migratory risks, as well as risks as regards security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime. As a candidate country, Montenegro should refrain from any measure that could jeopardise the attainment of the EU's objectives, when using its prerogatives to award nationality. In December 2019, Parliament enacted amendments to the law on Montenegrin citizenship. These confirm the automatic eligibility for citizenship of the family members of successful applicants to the investor citizenship scheme as well as the eligibility of talented athletes and artists of minor age for citizenship.

2.2.2 Chapter 24: Justice, freedom and security

The EU has common rules for border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails lifting border controls inside the EU. EU Member States also cooperate with Montenegro in the fight against organised crime and

terrorism, in judicial, police and custom matters and are supported by 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 now largely in place. **Some progress** was achieved in addressing last year's recommendations, in particular as regards adopting standard operating procedures on financial investigations and strengthening the institutional capacity in the area of migration, asylum and border management.

In the coming year, Montenegro should in particular:

- review the legal and operational approach towards financial investigations, money laundering, asset recovery, to align it with EU and international standards and practices; establish an integrated approach between all the bodies involved and provide them with the necessary legal and operational tools to create the conditions for establishing a convincing track record in this area;
- take concrete measures to limit the use of plea bargains to exceptional cases, in order to enhance the transparency and the credibility of the judicial response to organised crime through a more deterrent and consistent sanctioning policy;
- further strengthen the capacity to deal with mixed migration flows and the integration of refugees; continue to increase human and material resources devoted to border management and the migrant registration system.

Montenegro continues to implement a detailed action plan on justice, freedom and security, which was adopted prior to the opening of the accession negotiations on this chapter in December 2013.

Fight against organised crime

Montenegro has **some level of preparation/is moderately prepared** in the fight against organised crime. **Some progress** was made in addressing last year's recommendations, in particular as regards the creation of a centralised bank account register, a stronger capacity and professionalism of the police and an increased number of on-going proceedings on asset confiscation.

Good progress was achieved in establishing an initial track record of investigations in the area of fight against trafficking in human beings and money laundering. Internal organisation and coordination of law-enforcement agencies was further improved, as reflected in the increasing number of investigations, arrests and seizures. However, Montenegro needs to address some horizontal systemic deficiencies in its criminal justice system, including the way organised crime cases are handled in the courts.

In the coming year, Montenegro should in particular:

- increase the efficiency of criminal investigations by: i. improving the access of law-enforcement agencies to key databases and establishing an interoperable system with a single search feature; ii. restoring the full use of special investigations measures (SIMs), in full respect of constitutional principles; and iii. increasing the number of investigators and experts in key areas such as financial investigations, cybercrime, forensic, SIMs.
- address the lengthy duration of trials and frequent adjournments in organised crime cases;

ensure a stronger mutual understanding between courts and the prosecution on some key legal concepts such as money laundering and the quality of evidence;

→ enhance the strategic monitoring of the criminal justice system by establishing a centralised database in the area of organised crime and high-level corruption, collected from all relevant authorities, for analysis and policy making purposes.

Institutional set-up and legal alignment

The number of police officers was reduced to 4,537, from 5,400 in 2018. The ratio of police officers remains high at 517/100,000 inhabitants (for an EU average of 326/100,000 in 2017 according to Eurostat), but, unlike most EU Member States, Montenegro includes in the police the border guards (1,321 staff members), non-operational staff such as advisors and officers without police rank.

The two key **institutions** in the fight against organised crime, the Special Prosecutor's Office for organised crime and high-level corruption (SPO) and the Special Police Unit (SPU) have stabilised their staff around 46 and 32 staff members respectively, including 14 Special Prosecutors in the SPO. The poor office conditions, hampering the efficient functioning of the SPO, remain unaddressed.

The Police Directorate was re-organised into eight departments in April 2019. An entire department is now devoted to the fight against organised crime, encompassing the SPU and four other units. It totals 92 positions, of which 70 are currently filled. With clearer lines of command, this department provides stronger and more coordinated resources in support to SPO-led investigations into organised crime. Operational capacity was increased in all departments, some functions were decentralised and the responsibility of regional police offices strengthened. However, human resources are still insufficient to cope with the workload in the SPU and other key units. The police needs more senior investigators for organised crime, drug smuggling, specialists in charge of special investigative measures, experts in cybercrime, economic crime and forensics.

The Administration for the Prevention of Money Laundering and Terrorism Financing (or Financial Intelligence Unit - FIU) was integrated in the police. It has 30 positions, including 17 dealing directly with cases (from 10 in the previous FIU). The FIU applied to restore its membership in the Egmont Group, which was cancelled when the FIU ceased to exist under its previous legal form. In the meantime, Montenegro uses judicial cooperation, Interpol and Europol communication channels to access to international intelligence on money laundering.

In April 2019, an **Asset Recovery Office** (ARO) was formally established within the police. Five police officers are entitled to process asset recovery requests sent by national or foreign authorities, to identify and locate criminal assets. They have direct electronic access to some, but not all, police and civil databases. To access to other databases, a formal request is needed. The ARO acts as a contact point for foreign AROs and for the Camden Asset Recovery Inter-agency Network (CARIN), while the Prosecution is responsible for the freezing and recovery of assets. Further alignment with the relevant EU *acquis*, including the direct access to all relevant databases and keeping them up to date (e.g. the national land registry) is needed.

The legal framework for the fight against organised crime is largely in place and aligned with the EU *acquis*. In December 2019, Montenegro once again amended its Law on prevention of money laundering and terrorism financing, in order to reflect the changes in the FIU's

institutional setting, and to ensure the compliance with FATF (Financial Action Task Force) recommendations related to FIU's independence. However, the law will need to be amended again, to address remaining shortcomings and to align it with the 5th EU Anti-Money Laundering Directive. In May 2020, the Committee of experts on the evaluation of anti-money laundering measures and the financing of terrorism (MONEYVAL) formally removed Montenegro from the fourth round's regular follow-up process, considering that the country had taken sufficient steps to remedy deficiencies that had been identified in 2015.

Following a Constitutional Court ruling from 2018, a number of Special Investigative Measures (SIMs), that are key for conducting criminal investigations, are no longer applicable. The prosecution is deprived of using undercover activities or the so-called "controlled delivery" when a consignment of drugs is detected and allowed to go forward in order to secure evidence against the perpetrators. This seriously hampers the fight against serious and organised crime. Restoring a full use of SIMs, in full respect of constitutional principles, should be ensured as a matter of priority.

In the area of security, Montenegro adopted in October 2019 a Law on critical infrastructures, aligning with the EU *acquis* on the identification, designation and protection of critical infrastructures. The list of infrastructures identified as critical for the State security is yet to be determined. The draft Law on internal affairs, which has been under preparation for three years, has yet to be adopted.

Implementation and enforcement capacity

The SPO conducted 31 investigations targeting 293 people in 2019. Some 95 people were indicted for organised crime offences. Final convictions were pronounced regarding 67 people in 2019, of which 62 were convicted based on plea bargains. Sentences in the context of plea bargains ranged from three months of in-house imprisonment to two years of imprisonment and fines from 1,000 to 50,000 euros. In addition, up to 45 investigations were launched in relation to serious crime, a large majority of which in the area of drug trafficking; 62 final convictions for serious crimes were pronounced, all based on plea bargains, with sentences from three months of in-house imprisonment to two years of imprisonment.

The criminal scene in Montenegro remains dominated by frequent gang-related murders (up to 44 gangs-related murders since 2012, including six in 2019 and two in the first three months of 2020). Homicides involving Montenegrin criminal groups have also occurred abroad (9 since 2018) including in Spain, Germany, Austria and Greece. At the same time, the number of arrests of members of crime groups reached the unprecedented number of 333 people from 2018 to the first quarter of 2020, including 19 arrested abroad.

In general, the number of investigations and prosecutions for serious and organised crimes has increased exponentially in 2018-2019 compared with 2016-2017, by respectively 150% and 100%. This reflects the positive impact of the coordinated work of the SPO and SPU, an increased capacity to address drug smuggling, and good international police and judicial cooperation. At the same time, the whole criminal justice system needs to become more efficient, operational and deterrent, including the way organised crime cases are handled in courts. Court proceedings are excessively lengthy, as multiple adjournments are frequent. These long delays, but also the lack of trust between the prosecution and the courts, following some controversial acquittals in recent years, have led to a widespread use of plea bargains by the Prosecution. A suspected criminal, who becomes a cooperative witness in the investigation, is exempted from

legal proceedings, notwithstanding the gravity of the offence. As a result, despite some noticeable exceptions, the criminal justice response appears generally lenient, with sentences, fines and asset confiscations disproportionately low compared with the gravity of the crime.

Montenegro needs to establish as a matter of priority a centralised database in the area of organised crime and high-level corruption, collecting data from all relevant authorities, for strategic monitoring and policy-making purposes. Montenegro has a national SOCTA (Serious and Organised Crime Threat Assessment), but it needs to be used more strategically to guide operational priorities in the fight against organised crime.

The Ministry of Interior continues to work on technical solutions to improve the **access of law-enforcement agencies to key databases**. This access is currently insufficient and continues to hamper the proactivity and efficiency of investigations. The department in charge of the fight against organised crime currently does not have direct access to Europol's SIENA secure communication channel, as the Europol contact point is located in another department of the police, but this access is being established. A secure communication mechanism established in 2017 between several key institutions has increased the number of exchanges, but it can be used only for low security messages, and it does not include the national land registry and the Central Bank. Only the FIU has a direct and automatic access to the Central Bank's databases, as provided under the relevant EU *acquis*. The establishment of a single search feature and interoperable databases are crucial to boost the efficiency of investigations and align with modern EU police practices.

International police cooperation continued to play a strategic role in the fight against Montenegrin crime groups, whose members often live and operate outside Montenegro. The number of communications (59,337) exchanged with foreign police services through Interpol rose by 40% compared with 2018. The number of communications exchanged through Europol reached 4,488, a 9% increase compared with 2018. Montenegro has an observer status in the European Network of Fugitive Active Search Units (ENFAST), providing support in the search of wanted fugitives. In 2019, eight members of Montenegrin crime groups were arrested abroad, based on arrest warrants. 18 Montenegrin fugitives are currently targeted by an active search. In 2019, the cooperation was particularly important with the police services of Germany, Austria, the Netherlands and the United States. Montenegro is actively involved in Europol's analytical and operational projects, which has been instrumental for some successful police operations. It is also increasingly participating in the activities under the EU Policy Cycle / EMPACT (European Multidisciplinary Platform against Criminal Threats). In 2019, the number of new cases in Europol increased by 48% compared with 2018. Montenegro participated in three Joint Action Days in 2019. In 2020, it co-leads the firearms policy area together with Spain. To further enhance its cooperation with Europol, Montenegro is encouraged to: i. use SIENA more proactively by initiating requests, and to extend its use to additional competent authorities; ii. participate more often in EMPACT meetings at Europol; iii. participate in additional analytical projects in crime areas that are mutually beneficial; iii. appoint a national EMPACT coordinator.

Since the signature of a cooperation agreement with CEPOL in 2011, Montenegro has full access to CEPOL e-learning activities, exchange programme and on-site activities. CEPOL national contact points, lead managers and exchange coordinators were appointed.

At regional level, Montenegro participates in the Western Balkans taskforce, a regional operational platform for investigations into migrant smuggling, under the leadership of Austria.

In November 2019, the Parliament ratified the agreement between the parties to the Convention on police co-operation in South-East Europe (PCC SEE) on automated exchange of DNA, dactyloscopy and vehicle registration data. In December 2019, Montenegro overtook the chairmanship of another police regional platform, the Southeast Europe Police Chiefs Association (SEPCA).

In 2019, the SPO launched 15 new **financial investigations** regarding 207 people and 152 legal entities, a substantial increase compared with 2018. In the first trimester of 2020, 4 new financial investigations were launched. Most of them are large-scale, complex investigations targeting dozens of people and legal entities linked with money laundering, tax evasion, corruption cases, and are very resource-intensive for the SPO. Launching a financial investigation in parallel with the criminal investigation is legally possible but remains limited. In most cases, financial investigations start too late and remain focused on tracing assets, mainly with the aim of proceeding to an extended confiscation, and therefore not in line with EU practice and FATF standards. Instead, the Prosecution conducts financial analysis within the criminal investigation to evaluate the proceeds of crime, but not on a sufficient scale to prove criminal acts, improve knowledge of criminal networks, uncover financial flows and investment of dirty money in the economy. Montenegro continued to strengthen its capacity in this area with numerous training courses. Standard operating procedures for conducting financial investigations were adopted. However, a review of whole approach towards financial investigations, including the legal basis, is needed.

The number of legal proceedings for **asset recovery** and the amount of assets recovered increased in 2019. But only in six cases temporary recovery orders were pronounced in 2019, regarding 120 people, for EUR 4 million and a number of real estate properties. In a high-profile corruption case involving the former President of the country, large real estate and land properties were confiscated. In general, due to the limited scope of the financial investigations, the amount of seized and confiscated assets is not yet at the expected level. The confiscation of asset in equivalent value, when the proceeds of crime itself cannot be reached, does not exist in Montenegrin practice. Plea bargains continue to be used to secure asset confiscation. In the last four years, EUR 32.5 million were confiscated as a result of plea bargains in organised crime and corruption cases. There is no national and standardised system for collecting statistics on frozen, seized and confiscated assets data, including their estimated value. Montenegro should urgently improve its track record on final confiscation of the proceeds of crime as a strategic policy priority in the fight against organised crime.

In 2019, and since the establishment of the **Asset Recovery Office** (ARO) in the police, 37 requests for verification of 137 individuals and 23 legal entities were received and 103 requests for verification of 217 individuals and 80 legal entities were forwarded to foreign authorities. The amount of requests remained stable in the first half of 2020.

The initial track record on **money laundering** was further developed, reflecting a stronger focus and increasing capacity of law-enforcement agencies in this area. There were two final convictions for money laundering in 2019, both achieved through plea agreements, leading to three month and five month-sentences and the payment of fines and compensations up to EUR 75,000. Two cases were pending before the court, including the prominent Atlas Bank case, in which the former owner of the bank was indicted for abuse of office in April 2019. In July 2020, however, Interpol cancelled the red notice warrant for the fugitive businessperson under investigation in this case.

Ten preliminary investigations and seven investigations into money-laundering were conducted in 2019, regarding 122 entities, including one case of a value of EUR 25 million. One new investigation and two preliminary investigations were launched in the first trimester of 2020. However, systemic deficiencies continue to hamper the whole chain of criminal justice in addressing money laundering. More stand-alone cases should be started. The police, the prosecutions and the courts should have more trained specialists on money-laundering. Judges' narrow interpretation of the concept of money laundering, in particular the link with the predicate offence, though the offence of money-laundering aims precisely at blurring this link, needs to be reviewed.

In a prominent case, the two suspects of laundering EUR 19 million coming from drug smuggling activities, who had been convicted in first instance to 11 years of prison, but acquitted in 2017 by an Appeal Court, won court cases against the state in November 2019 for unlawful detention and are entitled to a EUR 103,000 compensation each.

Montenegro has made some progress in the area of **fight against trafficking in human beings**. The initial track record was consolidated in 2019, reflecting a more targeted and coordinated approach to detecting trafficking offences. Montenegro had 11 trafficking cases in 2019, at different stages of the procedure, including three cases of trafficking within an organised crime group. In two cases the victims were women. One final conviction was pronounced in November 2019, ordering unprecedented severe prison sentences. Two cases were pending before the court. In January 2020, a human trafficking network from Taiwan was unveiled by the Montenegrin police, leading to the arrest of 93 people, in the biggest trafficking case in the Western Balkans ever. Four new investigations into trafficking in human beings involving 6 people were launched at the beginning of 2020.

The institutional capacity to address trafficking in human being was strengthened, under the leadership of a multi-disciplinary body monitoring the implementation of the anti-trafficking strategy. The Podgorica High Prosecutor's Office continues overseeing of cases from lower instances that could present elements of trafficking. The Ministry of Interior established a department in charge of victims' identification and referral and adopted standard operating procedures. During the first six months of 2020, 44 people were granted the status of victim, of which 43 were placed in specialised shelters. 16 contact points for victim identification were appointed at local police units and trained. A public awareness campaign was launched, including a TV clip on the risks of trafficking. Twelve NGOs benefit from state grants for prevention and protection activities, and one NGO runs a State-funded 24/7 SOS hotline. Efforts must continue to consolidate the initial track record on trafficking in human beings, to proactively identify victims of trafficking in human beings, to ensure assistance to victims, to increase prosecutions and convictions and to continue awareness raising, training and coordinating activities.

In the area of **trafficking in weapons**, Montenegro seized 990 weapons in 2019, of which 514 were firearms. The government continued to implement the 2015-2019 action plan on illicit trafficking in firearms between the EU and the South East Europe region. The focal point for firearms was established and is operational. It consists in a team of police officers from different services, duly trained and equipped prior to formal appointment. The team is in charge of data collection, analysis and exchange within Europol projects and with the Southeast European Law Enforcement Centre.

In the area of **cyber crime**, the institutional capacity was strengthened. It resulted in a 50 % surge in the number of cases initiated (111 preliminary investigations and 4 investigations were launched for a broad range of cyber offences, such as online fraud, hacking, ransomware, selling of counterfeit goods, extortion, hate speech, child pornography). Human resources need to be further strengthened, as a matter of priority, both in the police and in the prosecution, to address the threats of cyber-crime and cyber-enabled crime.

In the area of the fight against **tobacco smuggling**, there was no conviction for the organised cigarette smuggling in 2019. However, criminal proceedings were conducted on three large-scale cases, including one case involving 22 suspects. In another case a well-known suspected smuggler, who had been sought for 20 years, was arrested. Seizures of illicit tobacco are regularly performed by the customs, the local or central police. The total amount of seizures in 2019 was 1,719,000 cigarette packs, amounting to EUR 3.9 million. However, despite increasing efforts of law-enforcement agencies in this area, and an improved cooperation of Montenegrin customs with EU and international partners, the number of cases initiated is still insufficient, considering the estimated scale of tobacco smuggling from, to and across Montenegro. Montenegro needs to increase its risk assessment capacity in the area of tobacco smuggling, to promote intelligence led policing and proactivity of law-enforcement agencies, and to remedy to the systemic deficiencies of the free zone of Bar.

On **witness protection**, protection measures were applied to 3 people in 2019 and to 5 people in the first six months of 2020, in cases falling under the competence of the Special State Prosecutor's Office. Extra-judicial protection measures were implemented regarding 25 people.

Cooperation in the field of drugs

Institutional set-up and legal alignment

Montenegro's legal, institutional and strategic frameworks in this area are largely aligned with the EU *acquis*. However, on the demand side, there was no progress in addressing the deficiencies of the national drug information system, in accordance with EU standards. The National Drug Observatory (NDO) remains understaffed, has limited budget autonomy and does not sufficiently fulfil its coordination function.

Montenegro provided for the first time in five years a national drug report. However, despite good technical and scientific capacity in the forensic laboratory and other institutions dealing with drug-related issues, data collection on drugs remains fragmented, and does not rely on protocols compliant with the EMCDDA standards. The National Early Warning System (NEWS) is not fully operational. The recommendations from a July 2018 report by the EMCDDA have not been addressed. The NDO needs to be strengthened as a matter of priority in order to become an authoritative source of information, preparing regular comprehensive national reports on drugs in Montenegro, and providing an evidence-based source for drug-related national policies.

On the law-enforcement side, the police has two units in charge of drug-related crimes, one for petty drug smuggling offences and a second one for organised drug trafficking. The latter consists only of eight staff members, despite the fact that drug smuggling is the main activity of Montenegrin crime groups, mainly operating outside the country. The need for more investigators in this unit, the provision to this unit of a direct access to international channels of communication such as SIENA, and the restoration of the full use of special investigative measures need to be addressed as a matter of priority to improve the law-enforcement's

efficiency in this area. The fight against drug smuggling is a top priority of the national Threat Assessment of Serious and Organised Crime (SOCTA).

Implementation and enforcement capacity

2.4 tons of drugs were seized in 2019, of which 2.2 tons of marijuana. Seizures of cocaine and heroin have surged by respectively 250% and 1300 % compared with last year, partly reflecting international trends. In addition, 39 kg of cocaine and one ton of marijuana were seized abroad, as a result of international investigations. Montenegro participated in four multi-country police operations involving Austria, Slovenia, Croatia, Italy, Germany, France, the United States, Australia, Albania and Serbia.

The number of drug cases investigated in Montenegro continued to increase in 2019 and the first quarter of 2020, consolidating the trend of the previous year. In 2019, the number of investigations into cases of drug smuggling rose to 155, of which five qualified for organised crime and 150 for serious crime. In the first quarter of 2020, six new investigations for organised drug smuggling were launched. Eleven investigations were conducted with international cooperation in 2019, a 175% surge compared with 2018, leading to a number of successful high profile operations. In a major international police operation conducted in February 2020, 5.7 tons of cocaine were seized and 7 crew members, including 4 Montenegrin nationals, arrested on a ship navigating from Venezuela to Greece. The operation was a result of cooperation between the United Kingdom, Serbia, the Netherlands, amongst other partners, and was based on the intelligence provided by the Montenegrin police. Another complex international investigation, led by Montenegro, supported by Europol and involving law enforcement agencies from Austria, Croatia, France, Portugal, Serbia and Slovenia, severely disrupted one of the smuggling routes from Central America to Europe. Eight individuals were arrested in March 2020 in several countries after 20 locations had been searched. In another prominent case, the German police seized in the port of Hamburg half a ton of cocaine from a ship sailing under the Montenegrin flag and owned by the Bar Shipping-Montenegro Line, a state-owned company. The action was conducted by the Montenegrin police with colleagues from the United States, Germany and several other European countries.

Thirty-seven final convictions for drug smuggling associated with organised crime were pronounced, including 34 based on plea bargains. Some 126 final convictions for less severe drug offences were pronounced, of which 73 based on plea bargains. The total amount of fines and penalties recovered accounted for EUR 178,000. In drug-related cases qualifying as serious crimes, financial investigations, seizure and confiscation of the proceeds of crimes remained rare.

Some 5 tons of seized drugs were destroyed by the authorities on 15 June, upon request of the High Court, more than two years after the previous destruction. The lack of adequate storage for seized drugs and precursors prior to destruction was not addressed. Changes to the criminal law which would allow the immediate destruction of the drug to avoid storing it pending trial, while keeping evidences and samples, were not addressed.

Fight against terrorism

Institutional setup and legal alignment

Montenegro's **legal framework** is largely aligned with the EU *acquis*. However, the Law on International restrictive measures remains to be amended to be aligned with European standards

on prevention of terrorism financing and to make the system of the targeted financial sanctions against terrorists and terrorist organisations more efficient.

Montenegro has yet to adopt the strategy for the prevention and suppression of terrorism, money laundering and terrorism, which expired in 2018. The strategy for the suppression of violent extremism was adopted in February 2020.. Coordination should be enhanced between the two policies that are closely interconnected, to avoid overlap and working in silos.

In May 2019, a multi-disciplinary mechanism was established, consisting of representatives of Ministries of Labour, Health, Education, Social Welfare, Interior, police, local authorities, and NGOs, to follow up on individual cases where there is a risk of radicalisation leading to violent extremism and terrorism and to propose adequate responses. A hotline to report on risks of violent extremism was set up. Coordination efforts on the prevention of radicalisation need to be continued, in particular at local level, to involve all stakeholders in the prevention activities.

In November 2019, Montenegro and the EU signed an arrangement to implement the **Joint Action Plan on Counter-Terrorism for the Western Balkans**, on which Montenegro submitted its first semi-annual report in August 2020.

Implementation and enforcement capacity

The threats of terrorism and violent extremism remained relatively low in the country. As regard foreign fighters, 26 have left to Syria and five to Ukraine since the beginning of the conflicts. Ten came back from Syria and five from Ukraine. Further to a 2016 penal code amendment criminalising the participation in foreign armed conflicts, two returnees who came back after 2016 were sentenced. All the returnees went back to their communities and are monitored. The Ministry of Interior cooperates with civil society organisations to develop awareness raising activities amongst the youth. Prison staff have been trained on prevention work. A risk assessment for the identification of radicalised prisoners and those that are at risk of radicalisation has been drafted. Means for religious counselling of prisoners were put in place.

In the 2016 election-day coup attempt case, a first instance decision was pronounced by the High Court of Podgorica in May 2019, whereby 13 defendants including two Russian and eight Serbian citizens were found guilty of terrorism, creation of a criminal organisation, and other crimes against the constitutional order. Appeal proceedings are ongoing.

Montenegro continued to cooperate closely with Interpol and Europol and to contribute to the Terrorism Risk Assessment and Analysis for the Western Balkans. Montenegro is actively participating in the implementation of the Western Balkan Counter Terrorism Initiative (WBCTi). Cooperation with the EU Internet Referral Unit (IRU) at Europol for dealing with terrorist content online has started. Threat assessment needs to be conducted in a more analytical and inclusive way, in order to create a common understanding of main threats and risks amongst the concerned stakeholders and to prioritise the risks to be addressed.

Legal and irregular migration

Institutional set-up and legal alignment

Montenegro continued to consolidate its legal framework in the area of migration. Following the amendments to the Law on Foreigners in December 2018, three additional by-laws were adopted in spring 2019, in particular with the goal to simplify the issuance of temporary residence permits for work and seasonal employment, and to prevent unregistered labour migration.

The EU-Montenegro readmission agreement is facilitated by 15 implementing protocols on readmission with EU Member States, including the implementing protocol signed with Greece in March 2019. Montenegro has 10 readmission agreements with non EU-countries, including all Western Balkan partners and Turkey, and has finalised the negotiations with Georgia. Requests to start readmission negotiations were sent to Pakistan, Iran, Iraq, Morocco and Algeria.

Montenegro has a contingency plan for possible mass influx of migrants and asylum seekers at the borders, adopted in 2015.

Implementation and enforcement capacity

Montenegro continued to be an attractive country for labour migration in the Western Balkans, with 27,634 work permits delivered in 2019, a stable number compared with 2018. Legal migration is regulated by a quota system established annually. Seasonal workers, mainly from the Western Balkans, work primarily in the tourism, construction and agriculture sectors. Some 42,517 temporary residence permits were issued in total.

The 2018 upward trend in the number of irregular border crossing to Montenegro continued in 2019. Some 7,978 migrants were apprehended in 2019, a 60% increase from 2018. All of the apprehended migrants expressed their intention to request asylum, which continued to put under pressure the centres for asylum seekers, whose capacity was increased to 389 beds. Montenegrin authorities prevented 516 illegal entries to the country and 1,514 illegal exits from the country. The detention centre for irregular migrants can host up to 50 people. The SPO conducted three investigations into migrant smuggling in 2019, involving more than 40 people. Three indictments were issued. In four cases final convictions were pronounced regarding 48 people, including 28 verdicts based on plea bargains.

In the context of the COVID-19 pandemic, only six border crossing points remained open, to ensure the movement of goods and the return of Montenegrin citizens. The entry of foreigners was prohibited. Foreigners with temporary or permanent residence in Montenegro were subjected to the same regime as Montenegrin citizens, which did not include a total prohibition of movements. Irregular migration went down during the first seven months of 2020: 1,583 migrants were apprehended, while the authorities prevented 153 illegal entries and 258 illegal exits.

Secondary movements continued to add to migratory flows, in particular those created by readmissions from Bosnia and Herzegovina. In 2019, Montenegro accepted to readmit 2,213 third country nationals from neighbouring countries in the framework of bilateral readmission agreements, of which 2,033 from Bosnia and Herzegovina (a 139% increase from 2018). Readmission of third country nationals from Montenegro to neighbouring countries increased to 382 people in 2019, including 350 to Albania, an improvement compared with previous years. Bilateral cooperation with Albania on readmission should be further developed.

Montenegro's border police still does not have a biometric system of registration and identification of migrants. The risk of double registration of migrants following secondary movements, re-entry and subsequent asylum applications remains a concern. Montenegro should establish an IT and communication infrastructure that has the capacity to support an effective identification and registration process of mixed migration flows in line with the EU standards and best practices.

Only 41 voluntary returns from Montenegro took place, including 21 to neighbouring countries, processed directly by Montenegro's border police, and 20 to origin countries, supported by the International Organisation for Migration. The process of voluntary returns is hampered by the absence of consular missions of countries of origin in Montenegro. Despite the administrative obstacles, a more proactive voluntary return policy should be developed and necessary funds allocated to mitigate the migration pressure.

Construction works for an open migration centre in Bozaj, close to the border with Albania, are planned. A temporary container settlement on the same site was established with EU assistance and opened in July 2020. This created an additional reception capacity for 60 people, adding to the existing 329 beds in Spuz and Konik.

The **EU-Montenegro readmission agreement** is being implemented satisfactorily, with the number of readmission requests from EU Member States continuing to decline. Five hundred ninety-five Montenegrin citizens were ordered to leave the EU in 2019. The return rate was 59.7%, down from 73% in 2018. Since EU Member States report good cooperation, this decrease may be due to the processing of exceptionally large volumes of decisions, a backlog in previous years and possibly secondary movements.

Montenegro must continue its efforts to cope with migratory pressure, by further developing its international cooperation on readmission and supporting the successful reintegration of returnees, raising its capacity to prosecute migrant smuggling networks, increasing its reception capacity and enhancing its migrants' data collection system.

Asylum

Institutional set-up and legal alignment

The Law on asylum was amended in January 2019 and further aligned with the EU *acquis*. The directorate in charge of integration of people under a protection status, which is now under the Ministry of Interior, was reorganised. In July 2019, new integration measures, including financial assistance, language and culture courses, school enrolment for children and job placement were developed, but so far, the number of people concerned remained limited.

A draft list of safe countries of origin, aimed at accelerating the process of applications, was adopted in December 2019. It includes the Western Balkan region and Turkey.

Implementation and enforcement capacity

Although the number of migrants, expressing their intention to seek asylum, increased compared with 2018, the number of those actually lodging asylum claims declined in 2019. Only 1,921 asylum requests were registered, a 38% drop compared with 2018, reflecting an increased mobility and tendency to leave the country even before lodging the asylum request. 9,6% of the applicants were women and 89% were adults. 34% of the requests were lodged by Moroccan nationals, followed by Algerian (15%), Iraqi (15%) and Syrian (14%) nationals. Most of them left the country before the end of the procedure. This trend was confirmed during the first 7 months of 2020, with only 394 asylum requests lodged.

Despite the relatively small number of asylum seekers who actually remained in the system, the number of requests actually processed remains limited. Between January 2019 and March 2020, out of 77 cases where the applicant actually showed up at the interview, only 29 final decisions were taken. Twenty-four applications were cancelled due to the applicant's departure from the

country, while 24 are still in process. A number of interviews were postponed for technical reasons. Seven people were granted an international protection status from January 2019 to March 2020, including six refugee status based on family reunification grounds, and only one subsidiary protection status resulting from the request's own merit. Twenty-one appeal claims were lodged at the Administrative court. Due to the COVID-19 pandemic, interviews of asylum seekers were suspended in April and May 2020. They resumed in June after the interview premises had been equipped with the relevant protection equipment.

For the second year in a row, Montenegro's reception capacity was under pressure. 7739 people in total were accommodated in 2019, a 73% surge compared with 2018, mainly for short stays, overstressing the system to its limits. 4,5% of them were women. The asylum centre in Spuz, of a capacity of 104 beds, is generally used for families and women, while the alternative centre in Konik, of a capacity of 225 beds, hosts single men. It is private-owned facility rented out to the asylum authorities at expensive commercial price. 71% of the asylum seekers stayed in the alternative centre, where, despite recent improvements, the standards still do not match the standards of a fully-fledged asylum centre. Between January and April 2020, 1197 migrants were accommodated in the reception facilities. As from March 2020 preventive hygiene and disinfection measures were applied in all the centres to prevent the spread of COVID-19.

The budget of the asylum system rose to EUR 1.7 million in 2019 (a twofold increase compared with 2018), 66% of which was spent on the alternative reception centre. Reception costs are entirely paid from Montenegro's budget, with no external support.

The number of people under a protection status currently living in Montenegro dropped to 28 people. Nine persons out of 12 adults are working. Language courses are being delivered. Civil servants have limited opportunities to gain operational experience in the implementation of integration measures, due to the small numbers of people of concern.

Although Montenegro's asylum system has continued to demonstrate its resilience in a very tense context, efforts should be continued to improve the status determination process, further strengthen the reception capacity, and rationalise costs of accommodation in the alternative centre.

Visa policy

Montenegro's visa policy is not fully aligned with the one of the EU, including with the EU list of countries whose nationals require a visa and those exempt from this requirement. Under its tourism development policy, Montenegro still exempts nationals from Russia, Armenia, Kazakhstan, Azerbaijan, Belarus, Cuba, Ecuador, Kuwait and Turkey from short-term visa requirements - either on a seasonal basis for tourism purposes or permanently. The impact that these exemptions have on migratory flows is closely monitored, and no irregular migration from the countries concerned have been observed so far. The European Commission's third Report under the Visa Suspension Mechanism of July 2020 concluded that Montenegro continues to meet the visa liberalisation benchmarks. However, in order to ensure a well-managed migration system and security environment, Montenegro will need to ensure full alignment with the EU visa policy.

Montenegro has now 31 consular missions connected through the national Visa Information System. Three visas were issued at border crossing points in 2019, under conditions that were in line with the EU *acquis*. In the framework of the post-visa-liberalisation process, Montenegro

continued to implement relevant measures to prevent abuse of the visa-free regime with the EU and reported on it on a monthly basis. The number of first time asylum applicants from Montenegro in EU Member States and Schengen associated countries remained low, with 225 applications lodged in 2019 (down from 380 in 2018).

Schengen and external borders

Institutional set-up and legal alignment

The Status Agreement with the EU, providing for the deployment of European Border and Coast Guard teams with executive powers along Montenegro's borders with the EU, was ratified by both sides and entered into force on 1 July 2020. After Albania, this is the second such agreement to enter into force. The agreement paves the way for closer cooperation between Montenegro and Frontex, including more opportunities for the transfer of good EU practices. A first Joint Operation under the Agreement was launched on 15 July and started with the deployment of an EBCGA/Frontex officer to a border crossing point on the border with Croatia.

Montenegro's legal framework was further aligned with the relevant EU *acquis* through the adoption of amendments to the Law on border control in March 2019 and with the establishment, in April 2019, of a National Coordination Centre (NCC), a key body to improve the country-wide situational awareness, risk assessment capacity and the ability to respond to crises. The Director was appointed, the equipment was partly delivered and most of its planned 23 staff members were recruited. However, the NCC is yet to become fully equipped and operational.

The 2014-2018 strategy on Integrated Border Management (IBM) was extended to 2019. A new IBM strategy for 2020-2024, encompassing the new European IBM concept was adopted in February 2020. The number of positions in the border police is 1,364, of which 1,321 are recruited. However, according to the Schengen action plan, 600 more border police officers would be needed. The Advance Passenger Information System (API) is not operational.

Implementation and enforcement capacity

Montenegro continued to strengthen its border management capacity through numerous training activities, TAIEX support, and the purchase of equipment. However, the number of illegal entries prevented dropped to 516, from 1309 in 2018. Some 115 forged documents were seized. Material and human resources remain insufficient to cope with the challenges of land and sea border surveillance. Border police participation in combating and investigating cross-border crime should be increased. Cooperation with neighbouring countries in border management is good. Joint patrols with all neighbouring countries were conducted, with a significant increase of joint patrols with Albania. A demolition plan for the 30 alternative cross-border roads with Serbia was signed in March 2019, and started to be implemented. All the 14 alternative roads on the Montenegrin side were closed. In June 2020, an agreement with Bosnia and Herzegovina was signed on joint border crossing points. In 2019, 39,644 joint inspections were carried, 713 requests for information were processed by both joint cooperation centres of Plav and Trebinje.

In May and June 2019, Montenegro participated in two large-scale joint cross border police operations, Tuzi II and Sukobin I, at the Montenegrin-Albanian border, involving nine countries from the region and from the EU. Montenegro played a positive role promoting the Sea Gate initiative to address the challenges of the Adriatic high-risk zone for cross-border crime, thus creating a common situational awareness and operational response to common threats. Montenegro also continued to cooperate actively with Europol, Interpol and the European Border

and Coast Guard Agency (Frontex) on countering cross-border criminal activities. Montenegro participates in the Western Balkan Risk Analysis Network under the aegis of Frontex.

In the context of the COVID-19 pandemic, all but six border crossing points were closed for international road, railway or waterway traffic (including border crossing at airports). As of 16 March, all commercial flights were cancelled until 9 June. After 2 June, the borders were open for the countries with less than 25 active COVID-19 cases per 100,000 citizens.

Montenegro needs to continue to strengthen its capacity in border management, prevention of cross-border crime and corruption at borders.

Judicial cooperation in civil and criminal matters

As regards judicial cooperation in criminal matters, Montenegro continued to align its legislative framework with the relevant EU *acquis* through amendments to the Law on international legal assistance in criminal matters. The amendments regulated the establishment of Joint Investigation Teams (JITs) and revised the extradition procedures. Montenegro is encouraged to participate in JITs where required. In September 2019, the government adopted amendments to the Additional Protocol to the Convention on the transfer of sentenced persons. Montenegro has a well-established cooperation with Eurojust. There were 12 cases involving Montenegro opened in Eurojust in 2019, mostly related to money laundering, swindling and fraud. 10 cases were requested by EU Member States and two cases by Montenegro. There are two Eurojust contact points in the country.

In the area of judicial cooperation in civil matters, amendments aligning the Law on enforcement and security of claims and the Law on civil procedure with the EU *acquis* were adopted in April and June 2019 respectively. Montenegro is still not a party to the 2007 Protocol to the Hague Convention on International recovery of child support and other forms of family maintenance, relating to maintenance obligations, or to the 2000 Hague Convention on the International protection of adults.

The volume of judicial cooperation remained stable compared with last year, with 1,036 cases of mutual legal assistance in criminal matters and 867 cases in civil matters. The main partners remained the Western Balkans and the EU Member States. Montenegro has yet to complete a review of its administrative and budgetary capacity in judicial cooperation to address the needs in this area.

Counterfeiting of the euro (criminal law aspects)

There were four cases of money counterfeiting investigated by law enforcement agencies in 2019 and six court decisions, including five resulting in prison sentences.

3. FUNDAMENTALS FIRST: ECONOMIC DEVELOPMENT AND COMPETITIVENESS

| Table : | 2011-16 average | 2017 | 2018 | 2019 |
|--|--------------------|-------|-------|-------|
| Montenegro - Key economic figures | | | | |
| GDP per capita (% of EU-28 in PPS) ¹⁾ | 41.5 | 46.0 | 48.0 | 49.0 |
| Real GDP growth | 2.0 | 4.7 | 5.1 | 3.6 |
| Economic activity rate of the population aged 15-64 (%) , total ¹⁾ | 60.4 | 63.5 | 64.7 | 66.2 |
| <i>female</i> | 54.1 | 56.5 | 57.2 | 59.1 |
| <i>male</i> | 66.7 | 70.5 | 72.3 | 73.3 |
| Unemployment rate (%) , total ¹⁾ | 19.0 | 16.4 | 15.5 | 15.2 |
| <i>female</i> | 18.8 | 17.2 | 15.3 | 15.9 |
| <i>male</i> | 19.0 | 15.7 | 15.6 | 15.0 |
| Employment (annual growth %) | 1.1 | 2.1 | 3.2 | 2.6 |
| Nominal wages (annual growth %) | 0.8 | 2.0 | 0.1 | 0.8 |
| Consumer price index (annual growth %) | 1.7 | 2.8 | 2.9 | 0.5 |
| Exchange rate against EUR | 1.0 | 1.0 | 1.0 | 1.0 |
| Current account balance (% of GDP) | -13.5 | -16.1 | -17.0 | -15.2 |
| Net foreign direct investment, FDI (% of GDP) | 12.1 | 11.3 | 6.9 | 7.0 |
| General government balance (% of GDP) | -5.1 | -5.3 | -3.9 | -2.0 |
| General government debt (% of GDP) | 57.2 | 63.3 | 70.1 | 77.2 |

Notes :

1) Eurostat

Source: national sources

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

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

3.1. The existence of a functioning market economy

Montenegro has made **some progress** and is **moderately prepared** in developing a functioning market economy. Due to lower investment growth, the economy slowed down to a more sustainable pace in 2019. Exports, in particular of services, were growing but not enough to curb the large current account deficit. Financial sector stability has been reinforced following the bankruptcy and resolution of two local banks and the strengthening of the banking supervision framework. Labour market conditions improved, but the unemployment rate remains high. Labour activation measures and coordination between employment and social services recorded limited progress. Montenegro's economic outlook

deteriorated substantially since the second quarter of 2020, as the COVID-19 quarantine measures introduced in April brought large parts of the economy to a halt. Public finances, which improved in 2019, are under significant pressure in 2020 due to fast growing costs to finance the authorities' policy response to the pandemic combined with a sharp decline in budget revenue due to lower economic activity. Meanwhile, in spite of some signs of improvement of the business environment, measures to fight against informality were delayed and there is a persistent and very large number of companies with frozen bank accounts. State-owned transport companies are not competitive and their losses are being transferred to the state. The institutional capacities of the competition and anticorruption agencies remain weak.

In order to improve the functioning of the market economy, Montenegro should in particular:

- use the available fiscal space to mitigate the crisis-induced impact on growth and employment;
- provide public guidance on the implementation of laws that affect businesses and ensure that the guidance is consistently followed by the public administration;
- advance restructuring and privatisation of loss-making public companies, respecting EU state-aid rules;
- reduce the tax wedge for low-income earners.

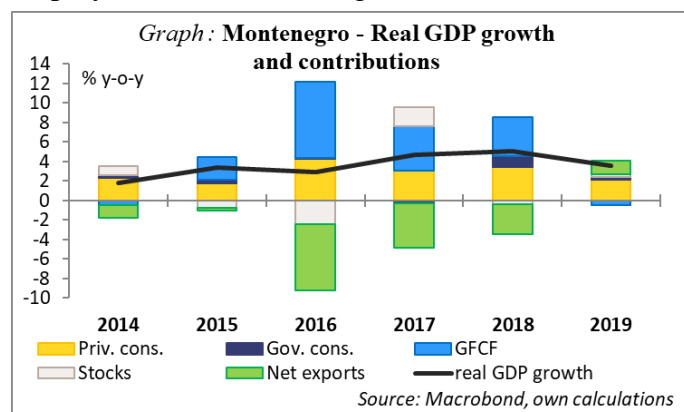
Economic governance

The EU accession process remains an important economic policy anchor for Montenegro.

There is broad support in Montenegro for integration with the EU and therefore, to align its legislative framework and practices with the EU. Over the past year, Montenegro adopted important pieces of legislation concerning the labour market, credit institutions, public procurement and state administration. However, weak institutional capacities and insufficient coordination between public institutions, and in particular between central and local levels, continue hindering the effective formulation of economic policy and its implementation. Montenegro's Economic Reform Programme provides a comprehensive formulation of economic policies, but policy implementation is often subject to ad-hoc decisions. The policy guidance jointly adopted in May 2019 in the context of the Economic and Financial Dialogue between the EU and the Western Balkans and Turkey has been partially implemented. Montenegro confirmed its first cases of COVID-19 infections on 17 March 2020. On 19 March, the government adopted a first package of measures to help the economy to deal with the consequences of the COVID-19 crisis. Measures consisted of deferral of tax obligations, a moratorium on loan repayments, and the provision of credit lines to help companies improve their liquidity. Authorities adopted a second economic package on 9 April, and a third one on 23 July, including subsidies for business and employees. The international community also contributed to support Montenegro's efforts in tackling the COVID-19 pandemic. On 25 May, the European Parliament and the Council adopted a decision on providing macro-financial assistance (MFA) of up to EUR 60 million to help Montenegro cover part of residual external financing needs, to enhance macroeconomic stability and mitigate the negative socio-economic consequences of the pandemic, complementing assistance by International Financial Institutions, such as the International Monetary Fund (IMF) through rapid financing instrument (RFI) assistance.

Macroeconomic stability

Already before the COVID-19 crisis, economic activity has started to slow as investment growth declined markedly. After strong real GDP growth in 2017 and 2018, the rate of economic expansion decelerated to 3.6% y-o-y in 2019. The deceleration reflects a slowdown in investment as large infrastructure projects were completed. Meanwhile, private consumption has become the main driver of growth, boosted by a strong tourism performance, growing employment and increasing household loans. Fiscal consolidation efforts continued, resulting in

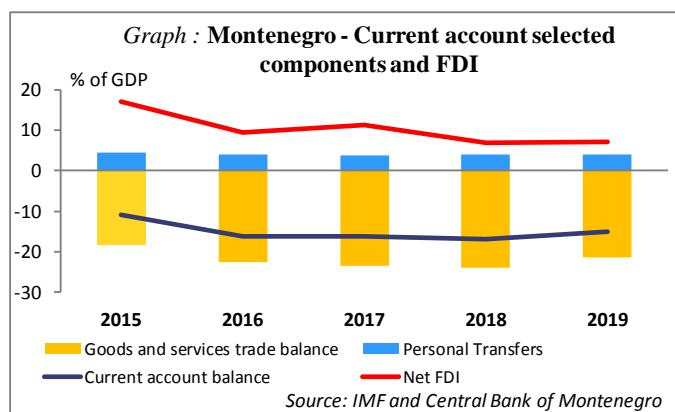


a marginal contribution of government consumption to growth. On the external side, exports grew more than twice as fast as imports, reducing the drag of net exports on growth. On the supply side, 2019 was marked by a poor industrial performance, in particular in the manufacturing sector, whereas the tourism and construction sectors grew by double digits. The effect of past years' strong GDP growth is reflected in gradual real convergence with the EU:

Montenegro's GDP per capita (in purchasing power standards) climbed to 49 % of the EU-28 average in 2019, up from 41% six years earlier. However, the economy is set to contract substantially in 2020. According to the Commission forecast, GDP would decline markedly due to the negative effects of the COVID-19 outbreak. Montenegro's economy is strongly dependent on tourism, a key source of GDP growth, foreign exchange, employment and fiscal revenues. The lockdown imposed by the quarantine brought the economy to a standstill as from mid-March. However, GDP growth remained positive in the first quarter of 2020, expanding by 2.7% y-o-y, but decelerating compared to the 3.1% expansion recorded in the previous quarter.

Strong domestic demand and a high import-dependence continued to fuel a very large current account deficit. In 2019, the current account deficit totalled 15.2% of GDP, a substantial increase compared to a 10.1% of GDP gap recorded in 2015.

Despite the faster increase of merchandise exports, the trade deficit expanded by 2 percentage points over the last five years, to 42.1% of GDP, reflecting a highly import-dependent economy and the impact of the investment cycle. Surpluses in the balances of services, largely driven by the strongly growing tourism sector, as well as in primary and secondary

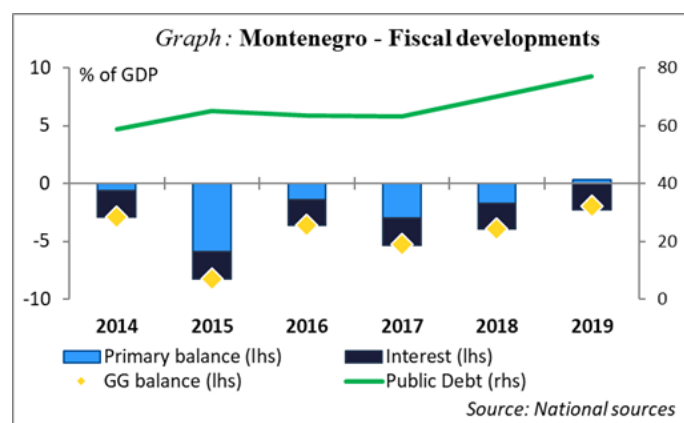


income, helped contain the external deficit. Net FDI inflows amounted to 7% of GDP in 2019, declining from 16.9% of GDP in 2015, covering less than half of the current account deficit. The current account deficit remained flat, also at 15.2% of GDP, in the four quarters to March 2020. The Central Bank released in June 2019 (for the first time) data on external debt and the net

international investment position (NIIP), estimated at 165% and -169% of GDP at the end of 2018, respectively.

Inflation decelerated in 2019 and early 2020. Inflationary pressures have remained low in the period 2014-2019, except for some moderate price increases in 2017 and 2018. The inflationary effects from the increase of VAT and excise rates and electricity prices in 2018 faded quickly in 2019, when average annual inflation was only 0.5%. Food prices drove inflation in 2019, but their impact has been largely offset by the decline of prices for oil derivatives, garments, communication, and tobacco. Consumer prices fell by 0.3% y-o-y in the first half of 2020, down from a growth of 0.5% in the same period a year earlier. Transport prices were the main disinflationary factor, adding downward pressures on electricity prices too. In spite of the increase of the minimum wage in the second half of the year, salaries increased marginally (by real 0.3% y-o-y) in 2019. Wage growth accelerated in the first half of 2020 by 2.3% y-o-y in real terms. The increase was driven by the retail, manufacturing as well as public health and education sectors.

Significant underspending in public investment and recovery of tax arrears reduced the budget deficit. The budget balance improved considerably in the last two years thanks to fiscal measures introduced since 2017. The budget deficit narrowed to 2% of GDP in 2019, down from 3.9% a year earlier thanks to improved tax revenue collection. Sustained economic activity boosted VAT proceeds by 12.8% y-o-y, while efforts of the tax administration to reschedule tax arrears contributed to a rise in revenues from direct taxes and social security contributions. The



new financing framework of local governments boosted municipalities' revenue by 18.9% y-o-y, resulting in a 1% of GDP surplus in their aggregated budget. On the expenditure side, capital spending accelerated at the end of the year but missed the annual target by 2.5%. By contrast, current expenditure grew by 5.5% above the plan, driven by other (current) capital expenditure and repayment of state guarantees.

The 2020 budget, adopted on 27 December 2019, introduced a series of ad-hoc expenditure increases totalling 2% of GDP, including a 9% increase in public health and education salaries, extra funds for the purchase of medicines, writing-off debts owed by the national air carrier and the carryover of underspent funds for the highway construction. Moreover, the lack of progress with the public administration optimisation plan, hindered by the absence of proper functional analyses and registers across the public sector, prevented savings on wage bill in the 2020 budget. Overall, the 2020 budget targeted a deficit of 1% of GDP, well below the fiscal rule ceiling of 3%, but a noticeable deviation from the 0.2% surplus planned in the 2019 Economic Reform Programme (ERP). However, the COVID-19 derailed budget plans, confronting public finances with a triple shock: the collapse of tax revenue due to the interruption of economic activity, a sudden surge of healthcare expenditure, and the need to finance support measures to preserve the economy. Only the more pressing medical needs to respond to the pandemic are estimated at 1.2% of GDP, while the first two sets of measures in support of the economy are estimated to cost some 3.6%

of GDP. In the first half of 2020, the central government deficit expanded to 4.4% of GDP, reflecting the rapid (7.5% y-o-y) growth in expenditures combined with a sharp (9.3% y-o-y) decline in revenues. On June 24 2020, Montenegro's parliament adopted a budget revision reflecting the lower income and higher spending due to the COVID-19 pandemic. The rebalanced budget sets the deficit at 7.3% of GDP.

The public debt ratio continued to increase from an already high level, partly due to liability management operations, and more recently, by the large financial cost of the pandemic. Following the adoption of the new medium-term debt management strategy in April 2018, the government has more actively managed its public debt portfolio. In September 2019, the government sold EUR 500 million worth of Eurobonds in order to refinance debt maturing in 2020, pushing the gross debt stock up to 77.2% of GDP at the end of 2019. The budget rebalanced adopted in June 2020, also increased the annual debt ceiling to accommodate emergency loans provided by international institutions, including the European Commission. The rebalanced budget foresees public debt to reach 82.5% of GDP in 2020.

Overall, the absence of monetary policy tools due to Montenegro's use of the euro as legal tender, requires fiscal and structural policies to focus on enhancing stability and economic resilience. Fiscal imbalances, which have been exacerbated by debt-financed investments and emergency measures in support of the economy during the pandemic, are set to ease once the first section of the Bar-Boljare highway is completed and the economy returns back to full capacity. However, fiscal consolidation targets have been derailed and public debt ballooned, exhausting the fiscal space that could be used to stimulate growth. Overall, emergency measures adopted by the government to preserve the economy during the COVID-19 crisis were timely and adequate, but also costly. In the absence of monetary policy, further structural reforms are needed to increase the economy's flexibility and its capacity to recover from the adverse shock.

Functioning of product markets

Business environment

Parts of the regulatory business environment recorded some improvement, but contract enforcement remains relatively weak. In 2019, the government started implementing various measures aimed at improving the efficiency of state administration, reduce the costs and shorten administrative procedures. Thus, the law on administrative fees and the law on local communal fees abolishes 49 taxes and reduces the tax rate of another 72. So far, one quarter of local municipalities are yet to implement these two laws. The new public procurement law has the potential (pending the adoption of secondary legislation) to create a more transparent system aligned to a large degree with the EU acquis. The government's electronic portal (eUprava) currently provides 249 e-services, most of them informational. Work is in progress concerning the development of the e-cadastre, as some procedures cannot be completed online yet. The large number of indebted companies represents a challenge. Montenegro compares favourably with OECD countries in terms of time and cost to resolve insolvency (for instance, it takes approximately 1.4 years in Montenegro to complete liquidation proceedings with an average cost of 8% of the estate, compared to the OECD's average of 1.8 years and 1.6% cost of the state). However, some owners prefer deserting the firm and open a new one benefiting from the simplicity and low registering cost. There are more than 18,000 companies and entrepreneurs with frozen bank accounts due to unpaid claims totalling EUR 648 million or 13.5% of GDP. Up to 20% of these firms are bankrupt or inactive. The bailiff system remains the key pillar for

enforcement of debt claims, with 26,600 cases filed in the first half of 2019 (of which, 17,917 still pending), compared to just 380 cases referred for out-of-court mediation in the same period. In 2019, the Tax Administration introduced 590 petitions for bankruptcy of indebted companies.

Measures to fight against informality have been delayed. Montenegro is confronted with several key obstacles in the fight against informality, such as weak enforcement capacity, corruption and a high regulatory burden. Inspectors cannot access the private premises of natural persons where informal activities are suspected, unless there is evidence of a criminal offense. A new law on inspections was adopted by the government in January 2020, but failed to remediate this issue. In July 2019, the parliament adopted the law on fiscalisation of trade of goods and services to introduce the electronic fiscal invoice system for real-time transfer of data from businesses' terminals to the tax administration, supporting the fight against the informal economy. However, the law was amended in December, postponing its implementation to January 2021 due to delays with the acquisition of software and adoption of secondary legislation. The Special Prosecutor's Office continues investigating several cases of corruption, but efforts need to be stepped up to improve the rule of law (*See Chapter 23 – Judiciary and fundamental rights*).

State influence on product markets

State aid is largely concentrated in state-owned transport companies. In 2019, the state budget earmarked EUR 32 million (0.7% of GDP) for subsidies, or EUR 5 million higher than a year before. Around half of this aid was assigned to the struggling Montenegro Airlines, which has already benefited from several support measures in the past. On 27 December 2019, the parliament adopted a *lex specialis* recognising Montenegro Airlines as a company of special importance, granting additional state support of EUR 155 million in the next six years to avoid its bankruptcy and ensure its future development (*see also Chapter 8 – Competition*). Other public corporations benefitting from state aid are the railway operator (ZPCG) and Montenegro's Maritime company receiving state aid worth EUR 9.4 million and EUR 5 million, respectively in 2019. Such state aid measures should be notified, analysed and decided upon by the Agency for Protection of Competition (APC) Council before they are implemented. Support to local companies for modernisation and adoption of international standards is growing. In 2019, 307 companies received support from the government, compared to 101 firms in the year before. Yet, the amounts disbursed by these grant programmes remain relatively modest (a few thousand euros per firm). In order to attract investment, the ministry of finance and local governments also provide tax exemptions for new investments. Soon after the outbreak of the COVID-19 pandemic, the government adopted a series of measures aimed at supporting businesses and employees to mitigate the economic impact of the pandemic. By the end of April, more than 1,300 companies in Montenegro, whose business has been affected by the lockdown, had applied for government's subsidies. In July, the government announced a third pack of measures to support the payment of wages of 25,000 workers in 3,500 companies, with an estimated cost of EUR 18 million by the end of 2020.

Price formation is liberalised with a few exceptions. Montenegro's regulatory agency sets electricity prices for households using as a reference power market the Hungarian energy exchange HUDEX (the only regional exchange where electricity futures are traded). Fuel prices are updated in accordance with their fluctuations on international oil market and the euro/dollar exchange rate in case these parameters exceed 5%.

Privatisation and restructuring

Efforts have been made to attract private investors through concessions, while the electricity company returned to state hands. In October 2019, the government called a pre-qualification tender for a 30-year concession on its two international airports (Podgorica and Tivat), to attract a major international investor to modernise them and boost tourism. Three companies and one consortium were pre-qualified to take part in the tender. However, the process for awarding the concession stalled, because one of the qualified bidders purchased in the meantime another of the qualified bidders, breaching the concession tender rules due to overlapping ownership. The port of Bar sold in November 2019 one hotel in order to finance new equipment for its port terminals. Following the reorganisation of the tourism company Budvanska Rivijera, preparation of the sale process is underway. The government has set as a priority the reform of the energy sector to improve its competitiveness and integration into the regional electricity market. In December 2019, the government completed the re-nationalisation of the electric power company (EPCG), acquiring 88.6% of its shares, while EPCG itself retains around 10% of shares.

Functioning of the financial market

Financial stability

The stability of the financial system has improved but the COVID-19 will challenge asset quality and profitability of banks. Credit growth plunged in early 2019, though it was largely a statistical issue, reflecting the bankruptcies of two small local banks, and the removal of their assets from the financial sector's statistics. Lending activity recovered in the third quarter of 2019, to reach 4.5% expansion at the end of the year. Credit growth remained stable in the first half of 2020, expanding by 4.7% y-o-y. Overall, the sector appears stable, liquid and well capitalised. The sector-wide solvency ratio reached 17.7% at the end of 2019, well above the statutory minimum of 10%, while the ratio of non-performing loans (NPLs) to total loans has been reduced to 4.70% in 2019, but raised to 5.26% in June 2020. Profitability indicators remain positive. In 2019, the aggregate return on assets and on equity were 1.2% and 9.0%, respectively.

The strong liquidity position of the banks before the COVID-19 crisis helps mitigate some of the negative effects from the declining of liquid assets. In March 2020, the Central Bank of Montenegro introduced a 90-day moratorium on the repayment of loans in order to support consumers and domestic companies during the lockdown period. This measure will have a negative effect on the liquidity and profits of Montenegrin banks. However, the pandemic represents a challenge for the financial sector due to the negative impact on asset quality and bank profitability, exacerbated by the possibility of reprogramming loans after the end of the moratorium period, and the cost of the contribution of the financial sector to mitigate the effects of the crisis on the economy. On 29 July 2020, the EBRD provided a EUR 50 million stand-by credit line to the Deposit Protection Fund of Montenegro in order to secure adequate funding to protect retail and corporate clients' bank deposits of up to EUR 50,000 per depositor. On 25 June 2020 the ECB set up a new backstop facility, the Eurosystem repo facility for central banks (EUREP). This facility will be available for one year to address pandemic-related euro liquidity needs of central banks outside the euro area, including Montenegro.

Access to finance

High interest rates and indebtedness of local companies are two major obstacles to gain

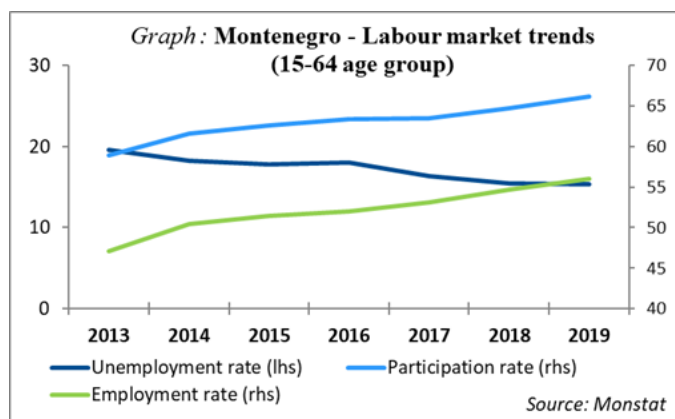
access to finance. Bank lending to private sector grew by nominal 27.5% over the last five years, recording very weak growth until 2018 while the economy grew at a faster pace. As a result, private sector credit declined as a share of GDP, from 64.8% in 2014 to 58.6% in 2019, raising to 60.4% of GDP in June 2020. However, The demand for new loans has decreased by 35% year on year since the outbreak of COVID-19 (in March until mid-July. The most significant decrease was registered for cash loans, followed by mortgage loans and credits used for preparations for the tourist season. Meanwhile, commercial banks have restructured EUR 75 million worth of loans. As part of the measures aimed at supporting economy amid the pandemic crisis, the Central Bank of Montenegro introduced a moratorium on loan repayments for six months, resulting in a 50 % fall in commercial banks' profits. The bankruptcies of two domestic banks and the acquisition of another by the largest bank reduced the number of banks to thirteen, which is still high compared to the size of the market. Eight of these banks are majority-owned by large EU banking groups, representing 79.7 % of financial sector assets. The large number of companies with frozen bank accounts due to unpaid debts, as well a limited coverage of the credit register, remain key obstacles to credit supply. Due to high credit risks, interest rates on loans (6.76% in June 2020) remain relatively high, representing a barrier for many small and medium enterprises. In order to support SMEs, the Investment and Development Fund along with some international financial institutions provide a series of bank guarantees and soft loans to entrepreneurs. However, large and profitable companies are disproportionately benefiting from this support (or finance investment from internal sources), while SMEs resort to more expensive trade credit due to their difficulties in accessing bank loans. In order to help companies to improve their liquidity during the 2020 pandemic the Investment Development Fund set some specific credit lines, while the European Investment Bank and European Investment Fund provided additional support through credit lines and guarantees to Montenegrin banks to facilitate credit to SMEs.

The size of the non-bank financial sector remains very small. The stock market's role in the local economy is marginal in terms of market turnover, while the assets of insurers and micro-financial institutions both represent around 1.5% of GDP.

Functioning of the labour market

Economic growth, reform of social benefit schemes for mothers and support for young unemployed helped improve labour market conditions. The unemployment rate (population aged 15-64) averaged 15.2% in 2019, after evolving at around 18.2% five years earlier. However, challenges persist, in particular the low activity rate of women and young people, and high long-term unemployment. In December 2019, a new labour law was adopted. The new legislation is expected to provide more flexibility by shortening procedures, simplifying dismissal procedures, facilitating the use of fixed-term contracts and the deployment of employees outside the employers' premises (e.g. telework).. Protection of workers is also reinforced in the new law, introducing the obligation of a written contract prior to work. Sanctions for undeclared work are also more severe, with a view to reducing informality. The halt of economic activity introduced in March 2020 to contain the spreading of COVID-19 had a negative impact on the labour market. The unemployment rate rose to 17.4% in April, up from 15.3% in March and 16.4% a year earlier.

Active labour market policies need to improve and put more emphasis on re- and up-skilling. The Public Employment Service's capacity for job mediation remain weak (i.e. 400 jobseekers for every staff member of the Employment Agency, compared to the 100:1 ratio recommended by the International Labour Organisation (ILO)) to provide targeted services. Despite a 2 pps reduction in July 2019 of social security contributions, and the



expiry of the 2 pps “crisis tax” for above-average wages as of January 2020, the tax wedge remains relatively high, especially for low-wage earners, generating disincentives to hire and work, particularly at the lower end of income distribution. Skills mismatch persists for persons with vocational education training and higher education attainment. Geographical disparities are also large and affect negatively and disproportionately the northern region. In May 2019, the government raised the minimum wage by 15%. As a result, wages recorded some modest annual growth of 0.8% in 2019, while preserving local companies’ competitiveness.

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

Montenegro has made **some progress** and remains **moderately prepared** in terms of its capacity to cope with competitive pressure and market forces within the EU. Investment in knowledge and human capital is very modest, resulting in low innovation and productivity levels of local companies. Educational outcomes need to improve across the board, as well as the provision of upskilling and reskilling measures. Several important infrastructure projects are being implemented, gradually transforming Montenegro into a net exporter of electricity and developing transport networks. Physical broadband networks are being developed by the private sector while the authorities strengthened the legislative framework. However, the economy presents a weak industrial base characterised by low value-added activities, constrained by the small size of the market and the low technological know-how of most local companies.

In order to improve competitiveness and long-term growth, Montenegro should in particular:

- improve the quality and labour market relevance of education, in particular at secondary and vocational education levels;
- make sound cost-benefit analysis an integral part of public investment management.

Education and innovation

While Montenegro’s enrolment ratios are high, there is an issue with the quality of education. In 2017, Montenegro’s youth education attainment level (i.e. the proportion of 20-24 year olds who have achieved at least an upper secondary level of education) stood at 95.1%, compared to 83.3% in the EU-28. However, 32.4% completed a tertiary level in 2018 while the EU-28 ratio was 39.9%. The 2018 PISA report shows there are significant gaps in education quality. Montenegrin 15-year-old students attaining Level 2 or higher in mathematics, reading and science are 20-percentage points lower than the OECD’s average. Moreover, skills mismatch

persists for persons with vocational education training and higher education attainment. While the youth unemployment rate improved, it remains high at 22.3% in 2019. Overall, educational outcomes need to improve across the board in line with market needs to improve employability.

Investment on research and development (R&D) is improving. In 2018, R&D investment increased to 0.50% of GDP. Yet, most of the investment comes from the public sector. Only 2.2% of Montenegrin SMEs invest in R&D (compared to 22% on the regional level). Meanwhile, government support is gradually increasing. A new science and technology park is being established in Podgorica, while the one in Niksic (Tehnopolis) is already operational with 29 tenants, with equipment of its three laboratories being completed. Efforts are also invested in so-called soft measures (training, mentoring, intellectual property, etc.), activities which rely to a large extent on EU funds. However, the programmes are fragmented and often fail to attract sufficient interest from SMEs. A Smart Specialisation strategy was adopted in June 2019 and received a conditionally positive assessment by the European Commission services in December 2019.

Physical capital and quality of infrastructure

Montenegro is making substantial efforts to upgrade its infrastructure. The interconnection of the electricity network with Italy was established in November 2019 and contributed to the completion of the national electricity transmission ring, strengthening the robustness of electricity supply, and setting the basis for extending it to neighbouring countries. Montenegro made progress in diversifying its electricity production towards renewable sources, with several wind, solar and hydropower projects underway. Montenegro as part of the Transport Community Treaty benefits from the opening of its permanent secretariat in September 2019, and continues to participate in the Western Balkans 6 Connectivity Agenda. Notwithstanding the expected completion of the first section of Bar-Boljare highway in 2021, the highway remains incomplete. Any decision on building further sections needs to be based on a proper environment and social impact assessment, a sound cost-benefit analysis, a necessary precondition for developing a financing plan that preserves the stability of public finances. Several national and regional roads have been upgraded with the support of international financial institutions. Rail infrastructure requires further upgrading to unlock fully the potential of the port of Bar. The developments of telecommunication networks largely rely on the private sector. Fixed broadband services, and in particular the optical fibre sector, has shown strong growth, albeit mainly in the main towns. In the first nine months of 2019, the number of fibre connections has increased by 24%, totalling 34% of all fixed broadband connections. Although 98.6% of Montenegrin enterprises use computers, only 18% of them have Internet connections equal or faster than 100 Mbit/s. In order to align with EU environmental standards, water distribution networks and waste treatment plants are being constructed in several municipalities.

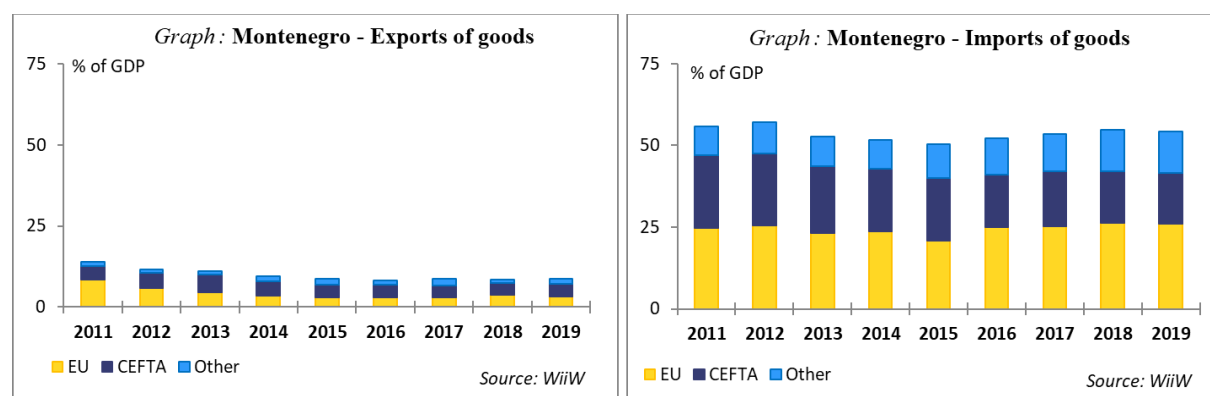
Sectoral and enterprise structure

The economy remains service-oriented, while the manufacturing base is small. Services remain predominant, accounting for 72% of total gross value added (GVA). The development of tourism, energy and transport infrastructure supports construction activity, which represents 7% of GVA. Recently, manufacturing's share in GVA has registered a slight decline, accounting at present for some 5% of GVA. Among subsectors, aluminium used to dominate the industrial landscape, with a 40% share of merchandise exports in 2011. At present, it accounts for 15%. In the past, Montenegro experienced persistent trade deficits in electricity. Following the drop in

aluminium production and the development of new power capacities, the situation has reversed, with electricity registering positive trade balances since 2018. Bauxite, wood, oil products and pharmaceutical are other industrial sectors recording growth. However, their low value added means that they cannot offset the much higher value of imported products. The small size of local companies limits output performance. In Montenegro, only 29 companies can be considered large (i.e. having more than 250 workers, turnover above €50 million and assets greater than €43 million), and one third of these are not involved in exports.

Economic integration with the EU and price competitiveness

Trade integration with the EU increased in the last years. Total bilateral trade between the EU and Montenegro grew only marginally (+0.7%) between 2018 and 2019 to a total of EUR 1.38 billion. However, over the last 10 years bilateral trade has grown by 61% and the EU remains Montenegro's first trading partner accounting for 46% of total trade (37% of total exports and 47% of total imports of goods). This compares to 26% of total trade with CEFTA. The overall trade balance is in favour of the EU, and increased slightly in 2019 to EUR 1.06 billion. However, this is somewhat offset by Montenegro's significant trade surplus in services of EUR 375 million, which is almost entirely due to growth in tourism. The EU also remains the main source of FDI inflows for Montenegro, and its share has increased over time, accounting in 2019 for 43.6% of total inflows, compared to 39.4% in 2014. Montenegro has very few industries integrated in international production markets and even the existing ones are at a very basic level in the value chain (mostly basic metals, rolling bearings and bauxite ores).



Trade openness has increased thanks to services. Montenegro is a relatively open economy. While merchandise exports have stagnated in the last ten years at around 10% of GDP, services exports (boosted by tourism) have kept rising, from 29.7% of GDP in 2014 to 37.1% of GDP in 2019. Total exchange of goods and services has grown from 100.1% of GDP in 2014, to 109.5% of GDP in 2019. In the context of the euroised economy and low inflation in the main trading partners, the potential for price competitiveness gains is limited. The real effective exchange rate appreciated marginally over the last 5 years.

4. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Good neighbourly relations and regional cooperation form an essential part of Montenegro's process of moving towards the EU. They contribute to stability, reconciliation and a climate conducive to addressing open bilateral issues and the legacies of the past. Montenegro remains committed to regional cooperation and plays an active role in building a more stable and secure region through participation in around 35 regional organisations and initiatives, such as CEFTA,

Energy Community, Transport Community, SEECP and the Regional Cooperation Council. Montenegro took over the chair of the Western Balkans Fund and the Regional Youth Cooperation Office (RYCO) strengthened its role in the country.

Furthermore, within the Presidency of the Adriatic-Ionian Initiative (AII) and the EU Strategy for the Adriatic-Ionian Region (EUSAIR), Montenegro hosted a meeting of the Ministers of Foreign Affairs of the AII and the EUSAIR Forum in Budva in May 2019. Partnership Status of Montenegro at the Organisation of the Black Sea Economic Cooperation (BSEC) was renewed. Montenegro took over the chair of the South-Eastern Europe Health Network (SEEHN) and for one-year the Center for Security Cooperation (RACVIAC). In January 2020, Montenegro took over the one-year chairmanship of the Central European Initiative (CEI) which organised an extraordinary virtual meeting of the CEI Heads of Government in May 2020, resulting in a Joint Statement emphasising cooperation, confidence and solidarity as the most effective responses to the COVID-19 pandemic.¹

During the COVID crisis, inclusive regional cooperation has proven to be essential. The establishment of green lanes within the region has proven the capacity of the region to address common challenges swiftly and efficiently. Inclusive regional organisations - the Regional Cooperation Council, the Transport Community, and the CEFTA - have been instrumental in responding to the COVID-19 crisis. These achievements need to be turned into sustainable improvements.

Concerning the implementation of the multi-annual action plan (MAP) for the development of a Regional Economic Area (REA) in the Western Balkans, there have been achievements, despite the persisting challenges. In this regard, the adoption of overdue decisions in the framework of CEFTA in Tirana in December 2019 has been positive. Montenegro is advised to continue with the implementation of all MAP REA aspects to reap the benefits of the economic potential of regional economic integration. This process is based on the EU *acquis*, and the EU accession process, which are mutually reinforcing.

Building on the results of the previous summits with the region, the Western Balkans summit in Poznan in July 2019 focussed on strengthening regional cooperation in the fields of economy and trade, the digital agenda, connectivity, security, fight against corruption, promoting reconciliation and youth. The summit endorsed a number of achievements in these fields, in particular, the Clean Energy Transition Declaration signed in Podgorica, the e Regional Roaming Agreement signed in Belgrade, a substantial connectivity package and the Roma Integration Declaration. It was also the occasion to kick-start the preparation of a Green Agenda for the Western Balkans.

At the Zagreb Summit on 6 May 2020, EU and Western Balkans Leaders agreed that deepening regional economic integration has to be a prominent part of recovery efforts of the Western Balkans. To do so, Montenegro needs to play a constructive role in building a common regional market, which will be critical in increasing the attractiveness and competitiveness of the region. It will help Montenegro to speed up the recovery from the aftermath of the pandemic – notably to attract investors looking for diversification of supply and shorter value chains. Such a

¹ Montenegro also participates in the 'Brdo-Brijuni process', the European Common Aviation Area, the Regional School of Public Administration (ReSPA), etc.

common regional market has to be inclusive, based on EU rules and built on the achievements of the regional economic area multiannual action plan.

Montenegro continued to closely cooperate with Bosnia and Herzegovina, Croatia and Serbia under the **Sarajevo Declaration Process** aiming at sustainable solutions for some 74 000 people who became refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. Within the framework of the Regional Housing Project (RHP), in 2019, eight new projects aimed at resolving the sustainable housing needs for 681 vulnerable refugee families in Montenegro were approved. Four projects were completed, providing housing solutions to 381 families in Niksic, Podgorica, Pljevlja and Berane. The four ongoing projects are expected to be completed by 2021, meeting the housing needs of 190 additional families.

Good progress has been registered since the establishment of the **Missing Persons Group** in November 2018. This group enhanced cooperation and increased effectiveness in accounting for missing persons, including further exchanges of information on potential gravesites and excavations, launch of a public regional database, and further updates for representatives of the families of the missing persons. Montenegro signed a Protocol of cooperation on the process of search for missing persons with Bosnia and Herzegovina in October 2019. The number of cases in Montenegro is currently 51 (2018: 57), 39 persons are being searched for in Kosovo, nine persons in Bosnia and Herzegovina and three persons in Croatia.

As regards **bilateral relations**, a number of high-level visits took place between Montenegro and other enlargement countries and neighbouring EU Member States. Montenegro has signed bilateral conventions on regional cooperation under the Stabilisation and Association Agreement with all partners with an SAA in force. In May 2019, a trilateral protocol establishing a demarcation border point shared by Serbia, Bosnia and Herzegovina and Montenegro was signed in Sarajevo.

Relations with **Croatia** remained good overall, despite some bilateral issues. There have been no developments regarding the pending border demarcation between Montenegro and Croatia. Croatian President and Minister of Foreign and European Affairs paid separate visits to Podgorica in June 2020.

Relations with **Italy** remained good. Montenegro opened Honorary Consulates in Trieste and Bologna in June 2019. During the coronavirus pandemic, Montenegro offered to host seniors from Lombardy, in homes for the elderly, on the Montenegrin seaside upon opening of the borders.

Relations with **Albania** remained good with some further improvement in infrastructure and cross-border cooperation. Maritime delimitation between the two countries remain pending. The first meeting of the Interstate Commission for water management was held in September 2019.

Relations with **Bosnia and Herzegovina** remained good. In October 2019, the two countries signed a Protocol on the non-statutory trafficking of the persons and a Protocol on cooperation in search of missing persons, creating the necessary legal preconditions for addressing one of the key issues in their bilateral relations.

Relations with **Kosovo** remained good. Montenegro fulfilled the obligation to conclude bilateral agreements with all countries having the SAA with the EU, by signing the Cooperation Agreement with Kosovo in March 2019. Montenegro opened a consular office in Gjilan/Gnjilane.

Relations with *North Macedonia* remained good. A Joint Session between governments, held in Podgorica at the end of May 2019, saw the signing of a number of agreements: Agreement on the Mutual Protection of Classified Information; Protocol of Collaboration between the Ministries of Interior in the Area of European Integration; Agreement on Environmental Cooperation between the Ministries of Tourism and a Memorandum of Understanding in Healthcare between the Ministries of Health. President of Montenegro visited North Macedonia and Prime Minister of North Macedonia Montenegro in the autumn 2019.

Bilateral relations with *Serbia* were marked by tensions. The December 2019 adoption of the Law on the freedom of religion or belief and legal status of religious communities triggered protest rallies in Serbia. Good development has been however recorded in the recognition of trusted services whereby agreements on mutual recognition of electronic identification and authentication provided in Montenegro and mutual recognition of qualified trust services provided in Serbia were signed at the Digital Summit in Belgrade in April 2019. There have been no developments on issues related to citizenship rights in the two countries.

Relations with *Turkey* remained good. A number of agreements relating to trade in services were signed, supplementing the 2008 Free Trade Agreement: cooperation in the field of scholarships grants, culture and military-financial cooperation. In October 2019, the fifth session of the mixed commission for economic cooperation between Montenegro and Turkey, together with a Business Forum, was held in Podgorica. The Montenegrin Foreign Minister visited Turkey in September 2019. During the reciprocal visit of his Turkish counterpart to Montenegro in February 2020, an agreement on providing consular assistance was signed, providing for consular emergency assistance to Montenegrin nationals in countries where Montenegro has no diplomatic or consular presence. Turkey donated to Montenegro personal protective equipment and testing material for coronavirus during the pandemic. Montenegro opened a Consulate in Istanbul in January 2020. Montenegrin authorities were pressured to extradite an alleged member of the Gülen movement.

5. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

5.1 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. **Limited progress** was made; while there was some improvement on EU *acquis* alignment in this area during the reporting period, last year's recommendations were not fully or adequately addressed, and are therefore reiterated below.

In the coming year, Montenegro should in particular:

- ensure that sufficient human and financial resources are allocated to its market surveillance, standardisation and accreditation bodies, and for the European Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), in order to ensure the implementation of aligned legislation;

- ensure that the Institute for Standardisation of Montenegro (ISME) become a full member of the European Committee for Standardisation (CEN) and of the European Committee for Electrotechnical Standardisation (CENELEC);
- continue to align with the EU *acquis*, as foreseen in the action plan for alignment with the *acquis* in this chapter.

General principles

Overall, Montenegro continues to progress on its alignment with the EU *acquis* on the free movement of goods, as laid down in the national action plan for alignment with the *acquis* in this chapter. However, progress has been slower than foreseen. As a response to COVID-19, upon the joint initiative of the Permanent Secretariat of the Transport Community and the CEFTA Secretariat, Montenegro, along with all the other governments in the Western Balkans, has successfully implemented measures to facilitate the transport and trade of essential goods within the region.

Non-harmonised area

Montenegro continued to implement its action plan for compliance with **Articles 34-36 of the Treaty for the European Union (TFEU)** during the reporting period.

Harmonised area: quality infrastructure

Human and financial resources remain an issue for the market surveillance, standardisation and accreditation bodies. Between April 2019 and end May 2020 the Institute for **Standardisation** of Montenegro (ISME) adopted 2,370 standards aligned with EU standards. ISME planned to join CEN/CENELEC in 2019, but this was postponed to 2020. Also as a response to COVID-19 crisis, and with the approval of CEN, CENELEC and ISO, ISME gave temporary free access to standards for personal protection equipment, medical devices, risk management, safety and durability, management of business continuity, risk and emergency situations.

The **Metrology** Bureau was relocated to new premises in July 2019 following the expiry of the lease on the previous building, which meant that it had to renew its laboratory accreditation. Work is ongoing to regain the laboratory's accreditation status and return to full operations. The Metrology Bureau has 42 staff out of the 49 to which it is officially entitled under its new systematisation act, which was adopted in May 2019.

On **market surveillance**, the amended Law on consumer protection, adopted in November 2019, further improved alignment with the EU *acquis*. Some 7,083 product inspections were made between April 2019 and end May 2020 (including 918 inspections following consumer complaints). Inspectors identified 3,115 irregularities, which led to administrative measures (consisting of 882 indictments and 2,233 decisions). Cooperation between the market surveillance authorities and the customs administration was, with increased joint surveillance performed in some sectors, notably for products posing a serious risk to consumers, based on data gathered from its observation of the EU's RAPEX rapid alert system.

On **product safety**, Montenegro reported that 6,124 inspections were made, 5,113 in proactive surveillance and 1,011 in reactive surveillance, identifying 822 dangerous products (42,211 items). Of these, 386 products (9,450 items) were classified as dangerous, representing a serious risk and were withdrawn from the market, while 106 products (1 685 items) were destroyed. Administrative measures were imposed accordingly.

The **Accreditation** Body of Montenegro, which is a full member of the European Cooperation for Accreditation (EA), granted seven new accreditations to conformity assessment bodies (two inspection bodies, four testing laboratories and one laboratory for medical examinations). In the same period, two accreditations previously granted were withdrawn, leaving 41 conformity assessment bodies overall.

Harmonised area: sectoral legislation

On ‘**new and global approach**’ **product legislation**, Montenegro adopted legislation partly aligned with the EU *acquis* on medical devices, addressing the conditions for manufacturing, the sale of medical devices, and their conformity with technical requirements. It also adopted legislation designed to align with the EU *acquis* on cableways, eco-design, and construction products. The new rules will make Euro codes obligatory from mid-2020.

On ‘**old approach**’ **product legislation**, Montenegro enhanced its alignment with the EU *acquis* on cosmetic products, as well as on medicinal products for human use and medicinal products for veterinary use. Montenegro adopted legislation designed to further align to some areas of the *acquis* on chemicals, including on biocides and to align to annexes I & XIII of the REACH Regulation. Human and financial resources need to be reinforced for REACH-related bodies. In July 2019, the national plan for the implementation of the Stockholm Convention was adopted, along with the 2019 – 2023 action plan.

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

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

5.2 Chapter 2: Freedom of movement for workers

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

Montenegro has **some level of preparation** in this area, registering **some progress** during the reporting period on implementing access to the labour market and the European Health Insurance Card, resulting from the EU support project on social security schemes and the chapter 2 action plan.

In the coming year, Montenegro should in particular:

→ continue to establish structures and develop administrative capacity to implement the EU *acquis* in line with the results of the EU support project on social security schemes and the chapter 2 action plan.

In March 2019, the government adopted an action plan to meet the accession requirement on the freedom of movement for workers.

On **access to the labour market**, amendments were adopted to the Law on foreigners, and to the Decision determining the annual quota for temporary residence and work permits for foreigners,

allowing for simplified procedures. Procedures are in preparation for handling foreigners' requests for temporary residence and seasonal employment permits through Montenegro's representations in countries of origin.

On preparations to join the European network of employment services (**EURES**) upon accession, the Department for EURES and International Employment Mediation within Montenegro's Employment Agency fulfilled its recruitment plan by filling all five planned posts.

On the **coordination of social security systems**, the bilateral agreement with Romania on social insurance is yet to be signed, and amendments to those with Serbia and with Bosnia and Herzegovina are to be concluded. In total, 25 bilateral agreements are already in force, of which 16 with EU Member States.

The **European Health Insurance Card (EHIC)** is recognised under the Law on health insurance. The card will, however, be introduced in Montenegro only after accession. As part of its accession preparations, in 2019 Montenegro carried out an impact assessment on introducing the card after accession. Before accession, Montenegro will also need to carry out a feasibility study of EHIC on public finances. The Health Insurance Fund started recruiting coordination staff in some of its regional units.

5.3 Chapter 3: Right of establishment and freedom to provide services

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

Montenegro remains **moderately prepared** in this area. **Some progress** was made during the reporting period through further alignment with the EU Services Directive and preparatory activities for the establishment of a point of single contact, while there was no progress on electronic company registration.

In the coming year, Montenegro should in particular:

- continue inter-ministerial coordination and fully align with the EU Services Directive;
- establish a fully operational point of single contact;
- implement the required electronic systems for the electronic company registration.

On the **right of establishment and freedom to provide cross border services**, further progress remains to be made on full electronic company registration. Alignment of sectoral legislation with the EU Services Directive continued. Establishment of a point of single contact, as provided for in the EU Services Directive, progressed in accordance with the relevant action plan. However, progress is hampered by the limited administrative capacity of the services department in the Ministry of Economy.

On **postal services**, the legislation is aligned with the EU Postal Services Directive. While the postal services market remains fully open to competition, Montenegro should further align its legislation with the EU *acquis*, including with the Regulation on cross-border parcel delivery services. Preparations have started on an action plan for the postal development strategy 2021-2022.

On the **mutual recognition of professional qualifications**, Montenegro reached a satisfying level of alignment with the EU *acquis*. Secondary legislation was adopted pertaining to the Law on the recognition of foreign qualifications for regulated professions. Implementation continued under the national plan to develop qualifications for regulated professions. A follow up of the foreseen measures is necessary to ensure a continuous alignment with EU *acquis*.

5.4 Chapter 4: Free movement of capital

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

Montenegro is **moderately prepared** in this area. In line with last year's recommendation, **some progress** was made on the legal framework relating to the fight against money laundering, resulting in the formal removal of Montenegro from the fourth round's regular follow-up process of MONEYVAL, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures.

Some progress was also made on the capacity to prevent and detect money laundering. Last year's recommendations remain valid.

In the coming year, Montenegro should still:

- align with the EU *acquis* on capital movements and payments, including on the acquisition of property rights and on payment systems;
- update the strategic framework on the prevention of terrorism, money laundering and terrorism financing, continue to strengthen the capacity to perform checks on all reporting entities, enhance the quality of reporting, ensure the independence and efficiency of the relevant institutions;
- take into account potential risks of money laundering linked to the investor scheme in the national risk assessment, basing this on the EU anti-money laundering rules, and take the necessary mitigating measures.

On **capital movements and payments**, since 2017 Montenegro has a regime of free movement of capital, no limitation on the transfer of property, and no foreign exchange or currency control. However, full alignment with the EU *acquis* has not been achieved. A new insurance law and amendments to the law on ownership rights, removing preferential treatments, are yet to be adopted.

As regards the **payment system**, although the legislation is largely in place, further alignment with the EU *acquis* is needed. Montenegro finalised draft laws on: (i) comparability of fees charged to customers, payment account switching and access to payment accounts with basic features, and (ii) on interchange fees and card-based payment transactions, with the aim of achieving further alignment with the EU *acquis*. There are five licensed payment institutions in Montenegro, including one for electronic payments. The total number of registered agents in payment institutions increased to 22 in the first quarter of 2020.

The strategy for the prevention of terrorism, money laundering and terrorism financing expired in 2018, and a new strategy is yet to be adopted. **The Law on the prevention of money laundering and terrorist financing** was amended in December 2019 to reflect the changes in

the institutional setting of the financial intelligence unit (FIU) and to strengthen its operational autonomy and independence, despite the fact that it is administratively a department of the police. The amendments refer to the competencies, powers, affairs and organisation of the FIU, including data protection issues and aim at ensuring the compliance with some of the recommendations of the Financial Action Task Force (FATF) and international standards. However, the law will need to be amended again, to address remaining shortcomings and to align it with the 5th EU Anti-Money Laundering Directive. In December 2019, the Montenegrin FIU applied to restore its membership in the Egmont Group, which was cancelled when the FIU ceased to exist under its previous legal form. In May 2020, the Committee of experts on the evaluation of anti-money laundering measures and the financing of terrorism (MONEYVAL) formally removed Montenegro from the fourth round's regular follow-up process, considering that the country had taken sufficient steps to remedy deficiencies that had been identified in 2015.

A new directorate dealing with the prevention of money laundering and terrorism financing was established within the central bank, with four staff members. In 2019 and the first three months of 2020, the central bank carried out 7 planned bank inspections, 4 targeted on-site bank inspections, one check of a payment institution, 2 checks of a micro-finance institution and one check of a financial leasing company.

In September 2019, the Capital Market Authority, the body in charge of regulating, licensing and monitoring the capital market, developed a rulebook to implement risk-based surveillance measures on the prevention of money laundering and terrorism financing. In November 2019, it adopted guidelines for risk-based analysis of capital market participants.

The FIU's enhanced capacity, including its direct access to police intelligence in addition to financial intelligence, resulted in a substantial increase in the number of cases processed and of suspicious transactions prevented. The number of transaction reports received by reporting entities rose to 264 in 2019 (a 14% increase compared with 2018), reflecting a stronger ability to engage with reporting entities and clarify reporting rules. Reporting from non-financial entities such as notaries, improved. However, the absence of reporting from lawyers still needs to be addressed. In 2019, the FIU carried out only 11 controls of reporting entities (compared with 94 in 2018), due to the fact that the supervision competence was transferred from the FIU to the Ministry of Interior in April, but endorsed in the revised anti-money laundering legislation in December. From January to September 2020, the ministry of Interior performed 37 controls of reporting entities. Twenty-four suspicious transaction were identified (compared with 22 in 2018), and 17 in the first quarter of 2020. Nine orders for temporary suspension of transaction were issued in 2019, amounting to EUR 7.6 million and 53 orders in the first quarters of 2020, amounting to EUR 2.2 million.

Since January 2019, Montenegro has been running **an investor citizenship scheme**, allowing foreign investors to acquire Montenegrin citizenship for an investment of minimum EUR 350 000 in the local economy. Of the 24 applications received so far, 5 were rejected after due diligence procedure, while for 5 applications final decisions on citizenship were issued with one passport having been issued so far in 2020 to a citizen of the Russian Federation. To the other applications and their family members, passports have not been issued yet due to the COVID-19 outbreak and the respective travel ban. This scheme needs to be closely monitored as it poses risks as regards security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime. As provided for by new EU anti-money laundering rules,

Montenegro should devote particular attention to enhanced customer due diligence in the context of the investors' citizenship programme.

5.5 Chapter 5: Public procurement

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

Montenegro remains **moderately prepared** on public procurement. **Some progress** was achieved in 2019, with the adoption of the laws on public-private partnerships and public procurement. Last year's recommendations were partially fulfilled.

In the coming year, Montenegro should:

- start implementing the laws on public-private partnerships and public procurement and adopt implementing legislation on public procurement, including on defence procurement;
- fully respect the EU public procurement principles when awarding the concession to operate Airports of Montenegro;
- further improve the functioning of the remedy system.

Institutional set-up and legal alignment

The **legal framework** on public procurement is broadly aligned with the *acquis*. In December 2019, Parliament enacted an amended law on public procurement and a new law on public-private partnership, both aimed at alignment with 2014 EU Procurement Directives on classical procurement, utilities and concessions. Work on related implementing legislation has started. In total, 38 different legal acts are to be adopted during the year, including implementing legislation on central purchasing, defence procurement and e-procurement.

Given the comprehensive regulatory, organisational and institutional changes over the last year, Montenegro adopted in July 2019 a detailed **action plan** for reforms in this area. The plan covers the period until December 2020 and consists of 37 different measures, among them the adoption of a new strategy on public procurement.

A high-profile tender for the concession to operate Airports of Montenegro was launched by the government in October 2019. The process constitutes a test for the government's determination to follow the EU standards of fair and transparent public procurement, providing value for money, competition and strong safeguards against corruption. Full compliance with the EU public procurement principles would be essential for Montenegro in line with the requirements of this negotiating chapter.

The **Public Procurement Administration** is now a part of the Ministry of Finance's Department for Public Procurement, which has a lead role in developing public procurement policy.

Implementation and enforcement capacity

Montenegro's **public procurement market** corresponded to 12.4% of GDP in 2019 and the value of all public procurement procedures amounted to some EUR 608 million.

On the **monitoring of contract award and implementation**, the Public Procurement Inspectorate executed 425 controls by October 2019, up 12% on the same period of 2018. Most controls relate to contract conclusion and execution phases. The number of controlled entities increased by 28% to 393.

Capacity to manage public procurement processes has improved, although the high number of contracting authorities is not conducive to efficiency. Smaller municipalities with limited own capacities may receive assistance for their public procurement infrastructure projects related to water, communal services and environment from two public-owned companies, PROCON and VODACOM. Centralised purchasing has become more widely used for certain standard procurements, but contract management and ex-post evaluation of procurement processes is still very rare. Lowest price as the only award criterion was applied in 66% of all procedures in 2019.

A regulatory and institutional framework is in place on **integrity and conflict of interest** mechanisms in public procurement. On data management systems, the new regulatory framework for public procurement provides a basis for the introduction of an electronic public procurement system in Montenegro. As of 2021, the current public procurement portal and traditional, paper-based procurement procedures should be replaced by the e-procurement system (EPPS). Activities for the implementation of EPPS, *financed by an EU project*, are progressing smoothly, with a test-version of the new software made available in September 2019. The pilot phase of the e-procurement system is to be launched in the third quarter of 2020, with the participation of selected contracting authorities.

Efficient remedy system

The legislation on the **right to appeal** is broadly in line with the *acquis*. The remedy system is based on a review of appeals by the State Commission for the Control of Public Procurement (PPC), an independent administrative body reporting directly to Parliament. Appeals against the PPC decisions can be made to the Administrative Court. The number of appeals related to procurement procedures decreased further to 55 by the end of 2019. For the first time, the PPC did not report any case backlogs. This was the result of legal and procedural changes introduced in 2017 and thanks to significant increase of the **implementation capacity** (new recruitments).

In 2019, some 8% of the PPC decisions were further contested in the Administrative Court by the contracting parties. The number of Administrative Court rulings changing the decisions of the PPC remains persistently high at some 41%, indicating that decision-making processes could be improved. This was highlighted in the findings and recommendations of *Taiex* peer review, which took place in November 2019.

5.6 Chapter 6: Company law

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

Montenegro has reached a **good level of preparation** on company law. **Good progress** was made on one 2019 recommendation, by adopting the Law on companies. The 2019 recommendation on accounting however remains valid, as the draft legislation has yet to be adopted by parliament.

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

→ adopt the rulebook on the workings of the Central Register of Economic Entities;

→ adopt the amended Law on accounting and the rulebook on company financial statements.

On **company law**, the Law on companies was adopted in June 2020, making further progress with *acquis* alignment on a number of issues, including cross-border mergers, single-member companies and a number of shareholder rights provisions. However, further legislative alignment is necessary with the remaining rules on shareholder rights. A draft rulebook on the workings of the Central Register of Economic Entities (CREE), including the legal and technical provisions to develop online electronic company registration (enabled through CREE), has been prepared and will be adopted following the entry into force of the Law on companies. National legislation on company takeovers is in line with main EU *acquis* provisions. Montenegro's Capital Market Authority is considering revisions to the Corporate Governance Code to better align with EU principles. The database of companies in the business register should be ready to interconnect with EU Member States' business registers in the future. Montenegro is developing the Central Registry of Regulated Information to be the official mechanism to collect and publish regulated information in accordance with the EU Transparency Directive.

On **corporate accounting and statutory audit**, draft amendments to the Law on accounting hold provisions in line with *acquis* requirements, including those on non-financial reporting. The law is yet to be adopted by parliament. While the new rulebook on the content and layout of company financial statements is partially aligned with the *acquis*, further amendments will be made at a later stage to appropriately reflect the 'think small first' principle of the EU Accounting Directive. Currently, all companies must comply with international financial reporting standards (IFRS), while reduced obligations exist for micro and small companies (balance sheet and profit and loss account only). Montenegro's Law on Auditing contains the essential elements in line with EU requirements, including a public audit oversight body (POB) which is independent of the profession. The POB is fully funded by the government. Statutory audits are performed based on international auditing standards (IAS) and are mandatory for public-interest entities. Some good results from audit quality inspections have been achieved since 2019, in some instances requiring licence revocation. The government approved plans to increase the number of audit quality inspectors at the POB (from 2 to 3).

5.7 Chapter 7: Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR), as well as rules for the legal protection of copyright and related rights. Rules for the legal protection of IPRs cover, for instance, patents and trademarks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, computer programmes and broadcasting.

Montenegro has a **good level of preparation** on intellectual property law. **Some progress** was made, in particular as regards alignment with the EU *acquis* on collective management of copyright and related rights and, establishing an enforcement track record, the coordination of concerned bodies, joint operations and reporting.

In the coming year, Montenegro should in particular:

- adopt a new national intellectual property strategy for 2021-2024;
- continue legislative alignment in particular with the Trade Secrets Directive and ensure alignment with the Enforcement Directive as concerns measures against intermediaries;

→ improve its track record on investigations, prosecutions and judicial follow-up.

On **copyright and neighbouring rights**, Parliament is yet to enact legislation to align with the EU *acquis* on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use. Ratification of the Marrakesh Treaty remains to be completed.

On **industrial property rights**, existing IT tools and search engines TmView, DesignView, DesignClass and the European Union Intellectual Property Office (EUIPO) User Satisfaction Survey (USS) as well as the Industrial Property Automation System (IPAS) for trademarks are fully functional. Furthermore, the World Intellectual Property Office (WIPO) Publish IT application has been implemented. Legislative alignment with the EU *acquis* continued on patents, trademarks and trade secrets and in preparation for Montenegro's future membership of the European Patent Convention and the European Patent Organisation (EPO), expected by the end of 2020.

On **enforcement**, Montenegro provides quarterly updates of its statistics. Reporting is yet to be fully aligned with Montenegro's future reporting obligations to the European Commission on customs enforcement of intellectual property rights. The track record on criminal investigation and prosecution needs to improve in line with EU and international standards. *Ex-officio* powers should be reinforced in this respect. Preparation of Montenegro's new national intellectual property strategy is ongoing, and cooperation with the WIPO in this regard needs to intensify. The intellectual property rights coordination team meets regularly and the established interdisciplinary working group has organised six joint actions focused on awareness raising and strengthening cooperation between IPR authorities and right holders. The Ministry of Health continued to monitor trafficking in counterfeit medicinal products.

Following restructuring of the state administration, the intellectual property service has been part of the Ministry of Economy since December 2018. **Staffing** decreased, compared to that of the Intellectual Property Office in 2018. Cooperation continued with international organisations, namely WIPO, EUIPO and the European Patent Office, as well as with economic operators and right holders. Cooperation with the EUIPO Observatory on the Infringement of IPR intensified.

5.8 Chapter 8: Competition policy

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

Montenegro is **moderately prepared** in this area. **Limited progress** was registered overall. In the state aid area, EUR 155 million of State funding were granted to Montenegro Airlines without a prior informed opinion of the State aid authority. This raised serious concerns. The proper handling of this case is an important test for the functioning of Montenegro's State aid control system. Under the 2018 Law on State aid control, the first two *ex-officio* investigations on non-notified aid were launched, being the first since 2012. Last year's recommendations remain valid and in the coming year Montenegro should in particular:

→ provide the State aid authority with the means and information to follow up on the

Montenegro Airlines case and to adopt an informed decision, in line with Montenegro's legislation, as well as its Stabilisation and Association Agreement obligations, on which Montenegro will then need to follow-up;

- ensure transparency on all state aid decisions and operational independence of the State aid authority as well as effectiveness of its control on State aid at all levels, including the building up of an enforcement record;
- improve the track record of the Agency for the Protection of Competition on antitrust and mergers.

Antitrust and mergers

The legislative framework provides a good level of alignment with the EU acquis and the Stabilisation and Association Agreement (SAA). The Law on protection of competition is largely aligned with Article 101 TFEU on restrictive agreements and Article 102 TFEU on abuses of dominant position. The law also provides for ex ante control of mergers above certain turnover thresholds, in line with the principles of the EU Merger Regulation. A good level of implementing legislation is in place. The implementing legislation is largely in line with the relevant EU acquis regulations and Commission guidelines. There were no developments during the reporting period.

On the **institutional framework**, the Agency for Protection of Competition (APC) is responsible for implementing the legal framework. It is an operationally independent authority and the responsible director is appointed by the government. Decisions on antitrust and mergers are taken by the Council of the APC, appointed by the government.

The powers of the APC are broadly comparable to those of the European Commission in the area of competition. It may (i) act upon a complaint or a notification (e.g. for mergers) or on its own initiative, request information and perform on-site investigations; (ii) approve mergers, with or without conditions, or prohibit them; and (iii) comment on draft legislation that may affect competition. The APC's decisions may be appealed before the Administrative Court. A leniency policy for self-reporting cartel members is in place. However, fines can still only be imposed by a decision of misdemeanour courts, not directly by the APC. Amendments to the Law on the protection of competition, to confirm the APC's set up under the 2018 Law on state administration are overdue since December 2019.

On **enforcement capacity**, the APC's administrative and financial capacities are yet to be strengthened. The APC currently has 16 staff, including 9 case-handlers. On **implementation**, the number of decisions on cartels and abuses of dominant position has stagnated over time, with only one taken in 2019. In spite of the increased number of decisions on mergers (62 in 2019), the APC has not prohibited any of them. In 2019, two in-depth investigations of a merger were reported by the APC. The amount and number of fines imposed by the Misdemeanour court (4 fines totalling EUR 2200 in 24 procedures in 2019) are not sufficient.. The leniency policy was not applied in 2019, as in the years before. The APC has only conducted four on-site inspections, two of which during the reporting period. No opinion on primary legislation was issued in 2019. The APC was not consulted for the new draft concession act for port services in the port of Bar. In order to demonstrate that the APC is stepping up its enforcement policy, it needs to make full use of its enforcement powers, by carrying out more on-site inspections, and further promoting the use of its leniency policy as a means to uncover cartels. To this end, the APC should consider

increasing its advocacy activities. Finally, the courts' capacity to handle complex competition cases must be significantly strengthened.

State aid

The **legislative framework** is to a large extent in line with the EU *acquis* and the SAA as well as with 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. In April 2020, important secondary legislation was adopted, aimed at alignment with the banking communication, notion of state aid and the Temporary Framework for state aid measures to support the economy in the context of COVID-19 outbreak and its first amendments. A second and a third set of measures to support the economy have been adopted respectively in May and July 2020. Some secondary EU *acquis* is still awaiting alignment, such as notification forms and information sheets (Regulation 2015/2282) and aid for port and airport infrastructure. The rules on the financing of services of general economic interest are largely aligned with the EU State aid *acquis*. However, Montenegro needs to demonstrate their proper enforcement.

As regards the **institutional framework**, the Agency for Protection of Competition (APC) is responsible for implementing the legal framework. It is an operationally independent authority, whose responsible director is appointed by the government. Decisions on state aid are taken by the Council of the APC, appointed by the government. Adopted State aid decisions can be appealed before the Administrative Court. However, a solid track record on enforcement by the State aid authority is yet to be proven. While the Ministry of Finance remains responsible for legislative proposals in the area of State aid, since the transfer of the State Aid Control Unit to APC in January 2019, there is no dedicated staff within the Ministry.

The **enforcement capacity** of the APC Council remains significantly insufficient. Two new staff were recruited during the reporting period. However, other staff resigned, leading to considerable loss of knowledge. As of now, there are eight employees in the field of State aid. To strengthen its expertise and enforcement capacity, the APC should undertake significant efforts towards new recruitments and related capacity building.

On **implementation**, the number of decisions adopted by the APC Council increased to 33 in 2019 from 22 in 2018. For the first time since 2015, three negative decisions were taken by the State aid authority in 2019. In response to the COVID-19 outbreak, the APC Council, in April 2020, assessed the second set of socio-economic measures prepared by government as compliant with state aid rules, while the first and third sets of measures are yet to be assessed for compliance. The State aid authority received no complaint between 2013 and 2019, which could indicate a low awareness of State aid rules among stakeholders. The APC's comprehensive 2018 report on state aid identified nine non-notified state aid cases at central and local levels. Consequently as per 2018 Law on State aid control, two *ex-officio* investigations, were launched in October 2019 and remain to be finalised by the APC. They are the first *ex-officio* investigations since 2012. Monitoring of compliance in this area needs to be significantly strengthened, including compliance with the conditions for cumulation of aid. A proper State aid register, including the *de minimis* register, is yet to be set up. The State aid authority needs to be systematically consulted on any concession act. For example, the government launched a 30-year concession for the airports of Montenegro (Podgorica and Tivat) in 2019. The procedure needs to be in full compliance with State aid rules.

In 2019, the most important State aid case is the Law on investing in consolidation and development of Montenegro Airlines of December 2019, providing for up to EUR 155 million in state funding to the airline. The law was adopted without a prior decision from the State aid authority, even though this is provided for under national legislation and the Stabilisation and Association Agreement. This raised concerns over compliance with the relevant provisions of Montenegrin law and the SAA, which require State aid measures to be assessed by an operationally independent authority (i.e. by the APC Council). Montenegro however stated to currently apply the standstill clause and to not have made payments on the basis of the law. It is now important for Montenegro to demonstrate that there is a functioning and independent State aid authority. For this, the government, as the initiator of the aid, needs to provide the APC with the necessary information and time to take a qualified decision as concerns this law and the state funding envisaged. To do so, the government has supplied further information to the APC in May 2020.

The State aid authority should investigate possible State aid cases in the energy sector. The State aid authority should also monitor implementation of State aid rules in large projects undertaken in cooperation with third countries. For this, the State aid authority needs to have access to all necessary information to provide opinions and take binding decisions. Awareness of state aid rules among aid grantors at both central and local levels remains insufficient and advocacy must be considerably stepped up, despite numerous training sessions organised in the reporting period.

Liberalisation

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

5.9 Chapter 9: Financial services

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

Montenegro is **moderately prepared** in the area of financial services, with **good progress** made in the reporting period, notably on the alignment with the EU *acquis* in the field of banking and financial conglomerates, fulfilling last year's recommendation. In the coming year, Montenegro should in particular:

- adopt and start implementing secondary legislation related to the Capital Requirements Directive and the Capital Requirements Regulation;
- perform an independent review of the asset quality in the banking system, analyse its results and prepare plans for corrective actions, if necessary.

On **banks and financial conglomerates**, the legislation is partially aligned with the EU *acquis*. In December 2019, Parliament adopted laws on deposit protection, credit institutions, resolution of credit institutions and amendments to the law on bank bankruptcy and liquidation. This aims to align the legal framework with the Capital Requirements Directive (CRD IV) and Regulation

(CRR) as well as the Bank Recovery and Resolution Directive (BRRD). Work on implementing legislation, necessary for the full implementation of these laws, will continue in 2020. The new legal framework, once implemented, will significantly improve the supervision of credit institutions and allow for timely interventions in troubled credit institutions.

During the reporting period, the Central Bank of Montenegro amended a number of implementing acts on the credit registry, reporting, and minimum standards for credit risk management in banks. It also adopted implementing legislation on macro-prudential measures related to retail banking loans. July 2019 saw the establishment of the Committee for Banking Supervision, a standing advisory body to the governor of the central bank. The internal organisation of the central bank was also changed in order to strengthen its institutional and supervisory capacities. Montenegro established units for off-site supervision of credit institutions, supervision of operational risk of credit institutions, a new department for the resolution of credit institutions and the Resolution Fund.

These actions, taken in the wake of the bankruptcy of two small credit institutions at the beginning of 2019, increased the level of supervision and enhanced safeguards against credit risk. The main indicators for the banking sector remain positive, with the ratio of non-performing loans dropping to 5.1% of total loans in February 2020 and solvency ratio reaching 17.7% at the end of 2019, well above the statutory minimum of 10%. Nonetheless, an external, independent review of the asset quality in all 13 banks present on the Montenegrin market started in February 2020, with a view to strengthening stability in the banking system and confidence in the banking system. The review should conclude in 2021.

The Central Bank adopted in March 2020, in cooperation with the Government and commercial banks, the decision on temporary measures for the financial system in order to mitigate negative effects of COVID-19 pandemic to citizens and financial system of Montenegro. The measures include notably a 90 days moratorium on repayment of loans, possibility to restructure and prolong loans and a temporary prohibition to pay out the dividends to shareholders of banks. Another decision from May 2020 introduced further measures that banks may take to restructure loans of borrowers affected by the crisis and the possibility to prolong moratorium on repayments of loans for another 90 days.

Montenegro's rules on **insurance and occupational pensions** are partially aligned with those of the EU and are primarily based on Solvency I rules. The Insurance Supervision Agency continued working on further alignment with the EU *acquis*, notably the Solvency II Directive. Implementing legislation on the content and method of maintaining data registers of insurance companies was also adopted, as well as some amendments to three implementing legislation acts.

On **financial market infrastructure, securities markets and investment services**, the Capital Market Authority adopted implementing legislation on the submission of regulated information in this field to the governmental Central Registry of Regulated Information. Implementing legislation and guidelines were also adopted on prevention of anti-money laundering and terrorist financing in relation to risk-based surveillance by capital market participants. Preparations continued for alignment with the EU *acquis* on investment funds (UCITS Directive), alternative investment funds (AIFMD Directive) and pension funds (IORP Directive).

5.10 Chapter 10: Information society and media

The EU supports the smooth functioning of the internal market for electronic communications,

electronic commerce and audio-visual services. The rules protect consumers and support universal availability of modern services.

Montenegro remains **moderately prepared** in the area of information society and media. There was **limited progress** during the reporting period. The recommendations of the previous report remain to be fully met, however new media legislation provides a good basis for this. Montenegro prepared and partly adopted a new set of media laws, which was also extensively discussed with the media community and civil society. The regulatory authorities' capacity and independence remain to be strengthened to implement the new media legislation and the recommendations.

In the coming year, Montenegro should in particular:

- ensure operational independence of the media regulators and public service broadcaster from undue political interference;
- 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;
- establish a track record to demonstrate administrative capacity to enforce the EU *acquis* for electronic communications, information society services and audio-visual media services, including as regards regulatory independence.

In the **electronic communications and information and communication technologies** sector, progress was made on the mapping of the national broadband infrastructure. The aim is to reduce broadband deployment costs, as recommended in the economic reform programme (ERP). In spring 2019, the Constitutional Court ruled that the blocking of freeware and cross-platform instant messaging services on the October 2016 Election Day was unconstitutional. As a result, the Court annulled the respective provision of the Law on electronic communication.

The 112 European emergency number is functioning.

Information society is under the responsibility of the Ministry for Public Administration. The 2019 action plan implementing the information society development strategy was adopted. The strategy, which is based on the digital agenda for Europe and the digital single market strategy, identifies key steps to achieve necessary standards, such as accessibility of broadband services, cyber security, digital business, eHealth and e-education. The Regional Roaming Agreement signed in April 2019 paves the way for the removal of roaming tariffs in July 2021. The Ministry for Public Administration continued to expand the number of e-services available to citizens. The e-government portal currently supports 598 electronic services under the competence of 52 institutions.

On **audio-visual policy**, AEM, the regulatory agency for electronic media, continued to exercise its mandate in a professional manner. The agency is responsible for overseeing the media during elections, although by law this should be done by an ad-hoc parliamentary committee, thus creating an overlapping jurisdiction. During elections, candidates lodging media-related complaints with broadcasters can appeal against their decisions directly to the AEM, which has to respond within 24 hours. However, the AEM lacks the authority to effectively monitor and penalise broadcasters. Related legal provisions and AEM operational capacity should be strengthened. AEM should be the only body responsible for supervising broadcasters during

elections.

In February 2020 the AEM limited the broadcasting of two Serbian TV broadcasters. Reason was the alleged use of discriminatory language in relation to Montenegro, featured in their TV shows and promoting hate, intolerance, and discrimination against Montenegrins.

A new set of three media laws was drafted and two of them adopted by Parliament on 27 July 2020: the Law on media and the Law on the national public broadcaster RTCG. The Law on the public broadcaster should ensure stable financial resources and the restoration of the public broadcaster's editorial independence and professional standards. The third law, the Law on audio-visual media services, needs to comply with the EU's 2018 revision of the Audiovisual Media Services Directive. It remains to be completed and the consistency of the three laws needs to be ensured.

5.11 Chapter 11: Agriculture and rural development

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

Montenegro remains **moderately prepared** in the area of agriculture and rural development. **Good progress** continued in particular regarding the implementation of the instrument for pre-accession assistance for rural development programme (IPARD II) through 2 calls and applying for entrustment in one further measure and in implementing and updating the action plan for EU *acquis* alignment in chapter 11.

In the coming period, Montenegro should in particular:

- continue to implement the measures entrusted to it under the IPARD II programme and seek to be entrusted with budget implementation tasks for the Technical assistance measure;
- continue to implement the action plan to ensure alignment with the EU *acquis* on agriculture and rural development.

On **horizontal issues**, the action plan for harmonisation with the EU *acquis* was revised and legislative alignment continued. Further progress remains to be made to bring direct support measures in line with the EU *acquis* by fully decoupling them from production and linking payments to cross-compliance. Preparatory steps were taken to establish a decentralised branch for the future paying agency in Bijelo Pole. As concerns the integrated administration and control system (IACS), further development of the land parcel identification system (LPIS) needs to continue and be rolled-out to cover the whole territory. Preparations continued to develop a pilot for the farm accountancy data network (FADN). Farm advisory services need to be further strengthened.

On **common market organisation (CMO)**, Montenegro started a pilot programme of a school scheme for fruits, vegetables and dairy products for the 2019/2020 school year. New measures to align with the CMO were introduced for the wine and olive oil sectors and on producer organisations. A peer review on wine and quality policy provided important recommendations on the designation of wine growing zones and geographical origins as well as on aligning quality policy with the EU *acquis*.

On **rural development**, contracting was finalised for the first two IPARD II calls, on the measures related to ‘*Investments in physical assets of agricultural holdings*’ and ‘*Investments in physical assets concerning processing and marketing of agricultural and fishery products*’. Second calls for above measures were published in September 2019 and February 2020 and applications, for the latter, are currently being evaluated. Montenegro got conditional entrustment of budget implementation tasks for the IPARD measure ‘*Farm diversification and businesses development*’ and launched the preparations for the ‘*Technical assistance*’ package. In 2019, the capacity of the IPARD Agency increased by 10 employees on permanent contracts and 15 employees on temporary contracts.

In **quality policy**, further secondary legislation was adopted and efforts continue to develop and implement the policy. Efforts are needed to ensure that strong procedures and systems are established and a robust control system put in place.

The **organic farming** sector has the required infrastructure in place (i.e. the competent authority, an accreditation system for control bodies and a certification system). The number of registered organic producers increased by 22% to 400. A number of educational workshops were organised for producers. There is potential for further development of the sector and for the opportunities under the IPARD programme to be fully used.

5.12 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 seed, plant protection material, protection against harmful organisms and animal nutrition.

Montenegro remains **moderately prepared** on this chapter. **Good progress** was made in particular in legislative alignment, implementing the national strategy, including its update. On raw milk quality improvement, the recommendations of the 2017 food audit continued to be implemented. The upgrading of establishments continued.

In the coming year, Montenegro should in particular:

- start implementing the revised strategy for aligning with and implementing the EU *acquis*;
- support the ongoing process of upgrading food establishments;
- continue to strengthen administrative capacity and infrastructures, in particular on food safety controls.

On **general food safety**, a thorough update of Montenegro’s strategy for aligning with and implementing the EU *acquis* was adopted, including the action plan and the specific action plan for classical swine fever. Implementation of the action plans continued. The 2019 programme for food and feed safety safeguard measures was adopted and implemented. The programme for 2020 has been adopted and its implementation has started. Montenegro intends to fully align with the EU’s revised Plant Health Law (2016) and Official Controls Regulation (2017) by 2023.

On **veterinary policy**, the implementation of the multiannual programme for the eradication of rabies successfully continued, and the spring and autumn 2019 and spring 2020 vaccination campaigns were completed. Since 2012, no cases of rabies have been reported. Vaccination of bovines against lumpy skin disease and bluetongue disease were implemented. There have been

no cases of lumpy skin disease since September 2016 and no reported cases of bluetongue disease since May 2017. The relevant programmes for the monitoring and control of these diseases for 2020, as well as for African swine fever were prepared. The programme of compulsory measures for animal health protection for 2019 was implemented and the programme for 2020 has been adopted and its implementation has started. The national programme to improve facilities dealing with products or by-products of animal origin was further pursued. Identification (microchipping) and registration of pets (dogs and cats) started in September 2019. A strategy for the control of stray dogs is awaiting adoption by the government. Capacity building for veterinary services continued.

On the **placing on the market of food, feed and animal by-products**, implementation continued of the national programme for improving raw milk quality and accompanying plan for handling non-compliant raw milk. Implementation of the national programme for the upgrading of food-processing establishments also continued, with some consolidation of companies. Some 63 establishments producing food of animal origin were compliant with EU regulations, and 11 of them were licensed to export to the EU. The plan for the management of animal by-products not intended for human consumption continued to be implemented. Strengthening administrative capacity and infrastructure, in particular on food safety controls, needs to remain a priority.

Further implementing legislation on **food safety rules** and on **specific rules for feed** was adopted.

On **phytosanitary policy**, implementing legislation was adopted. 2019 saw the implementation of programmes on phytosanitary measures and on the monitoring of pesticide residues in food of plant and animal origin. The programmes for 2020 have been adopted and the implementation has started.

The implementation of the national plan for the sustainable use of plant protection products continued, in line with the 2016-2021 action plan. The first and the second sittings of the Committee on Registration of Pesticides took place in December 2019 resulting in registration of 6 out of 17 submitted requests. In March 2020, six new additional requests were submitted to the members of the Committee for consideration. Capacity building for phytosanitary services was further pursued.

On **genetically modified organisms**, the 2019 programme for genetically modified food and feed monitoring was implemented.

5.13 Chapter 13: Fisheries

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

Montenegro has **some level of preparation** in this area. **Some progress** was made on the 3 recommendations in the last report: implementing the action plan on the EU *acquis*, capacity strengthening and international collaboration. Montenegro is a reliable partner in international fora. However the below two recommendations remain to be fully addressed.

In the coming year, Montenegro should in particular:

- revise and implement its action plan on aligning with, implementing and enforcing the EU *acquis*;
- continue to strengthen administrative, data collection, scientific advice, inspection and control capacities.

Montenegro continued to implement its action plan on aligning with, implementing and enforcing the EU *acquis* under this chapter. Law on structural measures and State aid in fisheries and aquaculture and Law on the organisation of markets in fisheries and aquaculture were adopted by the government in December 2019 and are pending adoption by Parliament. The two laws aim to achieve wide alignment with the EU *acquis*. Administrative and scientific capacity were strengthened through further staff training within the Directorate General for Fisheries in the Ministry of Agriculture and Rural Development.

On **resource and fleet management**, the annual data collection programme on Montenegrin fisheries continued.

The **inspection and control** capacity of the Administration for Inspection Affairs was strengthened, with the engagement of one additional inspector and the procurement of a vessel for inspection and monitoring of fishing activities at sea. Fisheries control on Lake Skadar was reinforced through installation of surveillance technique. Solar panels were installed on fishing vessels exceeding 10 m in length to ensure the secure functioning of the Vessel Monitoring System (VMS) and of the devices for the automatic location and identification system (AIS).

There were no substantial developments on **structural measures** and **State aid**, further to the drafting of above primary legislation. On **market policy**, preparatory steps for the establishment of producer organisations were taken. At **international level**, Montenegro continued its contribution to MedFish4Ever, the INTERREG programmes and the General Fisheries Commission for Mediterranean (GFCM). Under its presidency, in May 2019 Montenegro successfully hosted the fourth annual forum on the EU strategy for the Adriatic and Ionian Region (EUSAIR), for which it had set fisheries, aquaculture and tourism as priority topics.

5.14 Chapter 14: Transport policy

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

Montenegro is **moderately prepared**/has a **good level of preparation** in the area of transport policy. **No progress** was made in the reporting period in completing key sector reforms, and the 2019 recommendations remain valid. In the coming year, Montenegro should in particular:

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

On **general transport**, the new 2019-2035 transport development strategy and its related action plan were adopted in June 2019. There was no further alignment with the EU *acquis* concerning summertime arrangements, public service obligations, procedures and criteria for the award of public service contracts in road, rail and maritime transport. There is a need to increase administrative capacity and coordination in the Ministry of Transport and Maritime Affairs. The Commission for Investigation of Accidents in Maritime, Rail and Air Transport continued to work in line with its mandate, but its operational and financial sustainability needs to be strengthened. Montenegro continues to participate actively in the EU strategy for the development of the Danube Region (EUSDR) as well as in the EU strategy for the Adriatic and Ionian Region (EUSAIR).

On **road transport**, in November 2019 amendments to the Law on road transport were adopted, which further strengthened inspections of taxi and limo services. The amendments to the Law on contracts on carriage in road transport are yet to be adopted. Montenegro is applying digital tachographs, but is not yet aligned with the EU *acquis* on smart tachographs. The new law on roads is still to be adopted, as are the legislation on intelligent transports system and the strategic framework, including the allocation of resources for implementation. The amendments to the Law on transport of dangerous goods have not been adopted yet and the national body for the control of transport of dangerous goods has still not been set up.

More efforts are needed to align the secondary legislation with the EU social *acquis* and to implement it. In November 2019, the Law on road traffic safety was adopted, providing further alignment with the road safety *acquis*, as well as improving road safety enforcement and introducing adjustments to penalty policies. In September 2019, the government adopted the biannual 2020-2022 programme for road safety improvement. The aim is to further reduce the number of road fatalities, which is still significantly above EU average. According to a recently completed road safety assessment carried out in line with Directive 2008/96/EC, 55% of the roads investigated received the worst rating and feature as the least safe performing roads. The ongoing 2019-2022 programme for the reconstruction of state roads has the potential to take important steps towards improving Montenegro's road safety records.

On **rail transport**, a new railway law is yet to be adopted. In April 2019, the Railway Directorate was reorganised into the Railway Administration and now functions as an independent administrative authority. However, the practical safety and regulatory tasks still need to be specifically set out in the new planned railway law. Further efforts are needed to improve its administrative capacity and to train its staff.

Public transport and compliance with passengers' rights remain a concern. Implementing legislation for the interoperability of rail systems in line with the EU *acquis* was amended in November 2019, bringing in new technical specifications on safety in railway tunnels. The methodology for track access charges needs to be updated. Rail transport services for passenger and freight have been liberalised at domestic level, but further efforts are required to ensure the full opening of the rail market. Sustainable and rationalised railway infrastructure reconstruction and maintenance plans need to be developed. In November 2019, Montenegro signed the Declaration on European Railway Safety Culture, which aims to raise awareness and promote a positive safety culture throughout the industry.

On **maritime transport**, no further progress was made on achieving full member status of the Paris Memorandum of Understanding on Port State Control. The implementation of the National

Maritime Single Window is also lagging behind. The upgrading and extension of the current community vessel traffic monitoring and information system is under preparation and is planned to be completed by the end of 2021. The adoption of the Law on the rights of passengers in maritime and inland navigation is still pending. Two laws on the ratification of international protocols on the safety of maritime transport were adopted in July 2019. Despite declining traffic, the government decided to procure a second concession for pilotage services in the port of Bar. Any new activity will need to aim at improving efficiency in ports and be conducted with due consideration of safety at sea and of the protection of the marine environment. Montenegro is also recommended to align with the *acquis* on ports and to adopt legislation based on the Port Services Regulation 2017/352.

No progress was made on the alignment with relevant EU *acquis* on **inland waterway transport**. Montenegro has not yet adopted the law on merchant shipping. It takes part in the EU Strategy for the Danube Region and since July 2018 has had a bilateral agreement with neighbouring Albania on the Ckila-Zogaj joint lake border crossing. Further efforts are needed to modernise and extend infrastructure in inland waterway transport and to ensure the proper level of navigability and safe navigation.

On **aviation**, amendments to the Law on air transport, which should provide further alignment with the EU *acquis* on common rules for the operation of air services, are yet to be adopted. The new amendments will be instrumental in the successful completion of the first transitional phase of the European Common Aviation Area and the Single European Sky. However, there are still outstanding issues to be addressed on economic regulation. The tender procedure for the 30-year concessions of Tivat and Podgorica airports, launched in October 2019, is still on-going. The procedure will need to be in full compliance with State aid rules. The law granting EUR 155 000 000 of state funding to Montenegro Airlines was adopted without a prior decision from the State aid authority, even though this is provided for under national legislation and the Stabilisation and Association Agreement. Montenegro has not yet made payments on the basis of this law. The government, as the initiator of the aid, now needs to provide the State aid authority with the necessary information and time to take a qualified decision and thus to demonstrate its functioning and independence. The adoption of several rulebooks provided further alignment on air safety and air traffic operations.

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

5.15 Chapter 15: Energy

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

Montenegro has reached a **good level of preparation** in this area. **Some progress** was made in the reporting period, namely on security of supply, with steps undertaken for modernisation of existing production capacities, on the creation of the day-ahead market as well as on moving renewable electricity production to market-based support schemes. However, the 2019 recommendations remain valid. In the coming year Montenegro should, in particular:

→ create or join a functioning day-ahead market and couple with neighbouring markets,

including Italy;

- move to market-based support schemes for renewable energy production and streamline the permitting and connection procedures;
- adopt the law on security of supply of oil products and set up the stockholding body for the mandatory oil stocks.

On **security of supply**, Montenegro has an energy development strategy up to 2030, with a 2016-2020 action plan and a long-term energy balance for 2020-2022 adopted in July 2019. In December 2019, the government also adopted the energy balance for 2020. The revision of the 2015 action plan on compulsory strategic reserves of **oil and petroleum products** is still pending, nonetheless Montenegro should commence the monthly reporting of oil data. The law on security of supply of oil products and the relevant implementing legislation remains pending, and the central body for strategic oil reserves still needs to be set up. The current level of oil stocks remains close to zero.

An **electricity** interconnection with Italy was put into operation in November 2019, while others with Serbia and Bosnia and Herzegovina are planned.

Elektroprivreda Crne Gore (EPCG), national energy producer, and Kreditanstalt für Wiederaufbau (KfW) signed in September 2019 a loan agreement for the reconstruction and modernisation of the Perućica hydropower plant. The development of new projects, particularly on hydropower, should be carried out in conformity with the EU *acquis* on concessions, State aid and the environment. The tender for the ecological reconstruction of the Plevlja thermal power plant was awarded to a Chinese-Montenegrin consortium for about EUR 54 000 000 in November 2019 and the contract was signed in June 2020.

In April 2019, the BELEN power exchange established a strategic partnership with NordPool; however the relevant agreements are yet to be signed. The launch of a day-ahead market is expected in the second half of 2020. The operation of a power exchange and market coupling requires changes to the Montenegrin VAT law.

As part of balancing netting, CGES, the country's national transmission system operator, became an observer in the International Grid Control Cooperation and applied for membership of the European Tertiary balancing energy cooperation during the reporting period. Montenegro has been a member of the European Network of Transmission System Operators in Electricity since the network's inception.

Further alignment was achieved with the EU *acquis* concerning the **internal energy market**. Regulations were adopted on conditions for connecting consumer facilities to the energy transmission system, and for the connection of electricity producers to the transmission and distribution networks, as well as and on the grid connection of high voltage direct current systems and current-connected power par modules. Montenegro should implement the Regulation on Wholesale Energy Market Integrity and Transparency as soon as possible.

In June 2019, the government selected EPCG as the supplier of last resort and for the vulnerable groups; the contract was signed in November 2019.

The Energy Regulatory Agency (ERA) is an operationally and financially independent authority. It regulates prices for electricity supplied to small customer and households, which are entitled to universal service based on market prices and prices of grid services. On the other hand,

wholesale electricity market prices are freely formed. ERA has been an observer in the Agency of Cooperation of Energy Regulators since January 2018. ERA's overall independence still requires further improvement, since its statutes are subject to governmental approval. In addition, the possible penalty levels that ERA can apply are significantly below the required 10% threshold.

On **hydrocarbons**, national legislation is aligned with the Hydrocarbons Licensing Directive, but the Safety of Offshore Operations Directive is yet to be fully implemented. Investigation works in the submarine area started in November 2018 and have continued since then. Progress has been achieved on the preliminary design of the Ionian-Adriatic gas pipeline.

On **renewable energy**, in 2018 38.8% of gross final consumption of energy came from renewable sources, taking into account revision of biomass data. This exceeded the 33% target to be achieved by 2020 under Montenegro's national action plan. While the 38.8% share remains high by EU and regional standards, it marks a downward trend in Montenegro and is the lowest figure since 2008. Montenegro is yet to adopt rules for auctions granting support to renewable energy producers compliant with the 2014-2020 guidelines on State aid for environmental protection and energy. A regulation making it easier for individual producers to invest in the creation of small-scale generation facilities is also lacking.

In May 2019, the government adopted a regulation on incentives for electricity production from renewable sources and high-efficiency cogeneration. In July 2019, amendments were made to the regulation on implementation and incentives for electricity produced from renewable sources and high-efficiency cogeneration.

In November 2019, the Ministry of Economy awarded a tender for the long-term lease of state-owned land to a consortium led by WPD AG for the construction of a wind farm on the site of Brajići in Budva and Bar municipalities. The wind farm will have a minimum installed capacity of 70MW. The Možura wind farm with 46MW of installed capacity was put into operation in November 2019.

On **energy efficiency**, amendments to the Law on efficient use of energy to ensure further alignment with the EU Energy Efficiency Directive were adopted in April 2019. In June 2019, the government adopted the fourth energy efficiency action plan for 2019-2021. Additional efforts are still needed to fully align Montenegro's regulatory framework with the EU Energy Performance of Buildings Directive and with the Labelling Regulation. That the Directorate for Energy Efficiency is now a department within the Directorate for Energy must not reduce institutional capacity for further energy efficiency reforms, inspection supervision and local administration. The energy efficiency fund has not been established yet. There have been no developments to report on improving statistical data collection, on putting in place a functional system for calculating energy efficiency indicators and savings, or on monitoring the implementation of the current 2016-2018 energy efficiency action plan.

On **nuclear energy, nuclear safety and radiation protection**, Montenegro does not have a nuclear industry, research reactor or any other facility producing radioactive materials, and national legislation prohibits the construction of nuclear facilities.

Montenegro is a party to the Convention on Nuclear Safety and to the Joint Convention on the safety of spent fuel management and on the safety of radioactive waste management. In August 2019, the government adopted the second national report on the implementation of obligations

arising from the Convention on Nuclear Safety. In July 2019, Parliament adopted the laws on ratification of the 2005 Protocols amending the Protocol on the Suppression of Unlawful Actions against the Security of Fixed Platforms in the Continental Shelf and the Convention for the Suppression of Unlawful Actions Against the Safety of Maritime Navigation. The International Atomic Energy Agency carried out an inspection of nuclear material in July 2019.

The 2017-2021 strategy and action plan for protection from ionising radiation, radiation safety and management of radioactive waste is under implementation. The implementation report for 2017-2018 was adopted by the government in December 2019. The Comprehensive Law on protection against ionizing radiation, radiation and nuclear safety and security, which will align with 13 relevant EU legislative acts, is pending adoption.

On Community arrangements for the early exchange of information in the event of radiological emergency (ECURIE), Montenegro has provided all necessary information and progress was made towards becoming an operational member. However, Montenegro is yet to join the European Radiological Data Exchange Platform, which is part of the ECURIE arrangements.

The national regulatory body in the field of radiation and nuclear safety and security and ionising radiation is composed of eight members representing the Ministry of Sustainable Development and Tourism, the Ministry of the Interior, the Nature and Environmental Protection Agency and the Administration for Inspection Affairs. Montenegro has currently no intention to participate in the Capital and Advisory Committee of the Euratom Supply Agency, but is planning to become a member of the European Nuclear Safety Regulators Group.

5.16 Chapter 16: Taxation

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

Montenegro is **moderately prepared** in the area of taxation. **Good progress** was made in this area. All but one of last year's recommendations were met, and there was further progress on the recommendation regarding the implementation of the issues highlighted by the TADAT (tax administration diagnostic assessment tool) analysis.

- continue to implement the action plan addressing the issues highlighted by the TADAT analysis;
- fully implement the WHO Framework Convention on Tobacco Control (FCTC) on marking tobacco products and alcoholic beverages with excise control stamp;
- make further progress on removing VAT and other tax exemptions that are not aligned to the EU *acquis* (TBC).

Montenegro is implementing its action plan to address the issues highlighted by the TADAT analysis. By 27 December 2019, of the 172 activities foreseen in the action plan, 62 had been completed, 45 were ongoing, 18 were partly implemented, while 25 activities had not yet started. The rest may no longer be possible due to changes in the legal framework.

Laws on the fiscalisation of transactions on goods and services, on tax advisors, and on contributions for compulsory social insurance were adopted by Montenegro in July 2019.

However, in December 2019 the changes regarding the fiscalisation of transactions on goods and services were postponed until January 2021.

The Montenegrin tax administration is implementing its annual action plan for suppression of the grey economy. Between January and December 2019, it conducted 2,646 tax audits, leading to €67 million in tax adjustment, and issued 1,217 misdemeanour orders for over €1.9 million. The tax administration also updated its 2019-2022 business strategy in accordance with the EU's fiscal blueprint, and established a reform committee and a risk management board to monitor its implementation.

On **indirect taxation**, exemptions without the right to deduct VAT are still not aligned with the *acquis* and fuel for pleasure boats continues to be excise and VAT exempt. The government also adopted a number of tax measures relevant to COVID, such as establishing VAT exceptions on imports of donated protective equipment, and deferral of duties, VAT, and tax collection. Some progress was made in terms of marking tobacco and alcoholic products with excise control stamps. In terms of traceability of tobacco products, due regard should be had to international obligations under the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products. On 31 March 2020, the government adopted a decree laying down conditions for the deferral of tax collection and non-tax claims, due to the negative impact on businesses caused by the COVID-19 pandemic.

On **administrative cooperation and mutual assistance**, in October 2019 Montenegro signed the Multilateral Convention on mutual administrative assistance in tax matters. Parliament ratified the Convention in December 2019, when Montenegro also joined the BEPS Inclusive Framework. However, Montenegro still needs to adopt legislation to align with the EU *acquis* on the mandatory automatic exchange of tax information.

On **operational capacity and computerisation**, an e-fiscalisation project under a World Bank loan was launched by the tax administration. In 2019, three new departments were added to the tax administration (internal audit, international cooperation and tax police dealing with tax evasion).

5.17 Chapter 17: Economic and monetary policy

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

Montenegro remains **moderately prepared** in the area of economic and monetary policy. **Limited progress** was achieved on meeting last year's recommendation, mainly in the area of legal alignment and preparedness of the central bank for the integration with the ESCB. Limited capacity and insufficient resources of the Montenegrin Statistical Office (Monstat) slow down progress in this chapter.

In the coming year, Montenegro should in particular:

- continue to implement the action plan for alignment with the EU *acquis*;
- provide necessary resources and develop capacities of Monstat's national accounts department;

→ significantly improve cooperation between Ministry of Finance, Central Bank of Montenegro and Monstat on the division of tasks and production of statistics aligned with the ESA 2010 methodology.

Montenegro does not have standard **monetary policy** tools at its disposal, as it uses the euro as legal tender. This leaves fiscal policy as the main macroeconomic policy instrument. Montenegro's use of the euro, which was decided by the authorities under exceptional circumstances, is fully distinct from membership of the euro area.

The Law on deposit protection, adopted in December 2019, ensured alignment with the EU rules prohibiting privileged access by the public sector to financial institutions. However, a similar prohibition in the Law on insurance is yet to be introduced.

As part of Montenegro's advancing integration with the European System of Central Banks (ESCB), the Central Bank of Montenegro opened a disaster recovery site in November 2019, with support from EU funds. The role of the site is to maintain the continuity of the central bank's business functions in cases of serious incidents undermining the functioning of the banking system.

On **economic policy**, further alignment is needed with the EU Directive on requirements for medium term budgetary frameworks. Although the framework is in place, its content and reliability still requires upgrades. There was limited progress under the strategy implementing the 2010 methodology of the European System of National and Regional Accounts standards (ESA 2010). Moreover, Montenegro's fiscal notifications continue to be incomplete, and still require substantial alignment with the EU requirements, particularly as regards excessive deficit procedure data. Progress in all three areas is particularly hampered by limited capacity and insufficient resources of the Montenegrin Statistical Office, Monstat. Furthermore, there is no systematic cooperation and coordination of tasks between the Ministry of Finance, the Central Bank of Montenegro and Monstat on the production of necessary statistics. As a result, implementation deadlines are continuously deferred, while the last update to the national Action Plan on Chapter 17 provides for full alignment with ESA 2010 methodology only at the moment of the accession.

Partial implementation of the 2017 medium-term fiscal consolidation strategy maintained the sustainability of public finances primarily by rising budget revenues. Continued efforts are needed to contain public expenditure and reduce the level of public debt in order to comply with the fiscal rules. In June 2019, the Central Bank of Montenegro started publishing annual statistics on the international investment position and total external debt, a part of the data required under EU Macroeconomic Imbalance Procedure rules. Initial steps were also taken to establish an independent fiscal council. In the future, this body would assess and monitor the country's fiscal policy.

The government submitted its 2020-2022 **Economic Reform Programme (ERP)** on time. The reliability of the ERP fiscal planning and its linkage with 2020 budget has improved. However, additional efforts are needed to further upgrade capacity for the design and timely implementation of the economic policy measures.

5.18 Chapter 18: Statistics

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

Montenegro is **moderately prepared** in the area of statistics. **Some progress** was made on last year's recommendations. While there was some improvement on legislative alignment, on harmonising the statistical methodology with EU standards, and on increased transmission of data, notably in business, social and agricultural statistics, some of the 2018 and 2019 recommendations remain valid.

In the coming year, Montenegro should in particular:

- considerably strengthen the human and financial resources of the Statistical office of Montenegro (Monstat) so that it can fulfil its responsibilities and ensure staff retention;
- make significant progress in aligning with ESA 2010, including providing government finance statistical data and all available excessive deficit procedure data.

On **statistical infrastructure**, Monstat is the main producer and overall coordinator of statistics. The professional independence of Monstat's director (appointed for the third mandate in September 2019) is enshrined in law. Amendments to the law on official statistics and statistical system were adopted in August 2019, enabling the use of the necessary data from administrative sources. This resolved conflicts within national legislation regarding the use of data from administrative sources for statistical purposes and further aligned it with European statistical standards.

A new 17-member Council for the statistical system (including representatives from the Ministry of Health for the first time) was appointed in July 2019 for five years. Although the 2019-2023 strategy for official statistics is being implemented, Monstat's financial and administrative capacities remained very limited and deteriorated in the reporting period. Only around 95 of 180 available posts (the staffing plan was reduced from 200 to 180 in the public administration reform optimisation process) are filled, nine less than the year before, with only seven staff in the Department of National Accounts. The building hosting Monstat remains inadequate and this situation still needs to be addressed.

In the reporting period, Monstat continued to work on a robust basis for the coordination of other national authorities producing official statistics. It also improved its cooperation with administrative data providers by the signature of five new memoranda of understanding (i.e. with the University of Donja Gorica (a private University), the Ministry of Public Administration, the Ministry of Science, Chamber of Commerce of Montenegro, and the Ministry of Sport), bringing the total number of memoranda to 24.

Data transmission to Eurostat continued to increase. Limited progress was achieved on **macroeconomic statistics** and alignment with ESA 2010: Monstat has transmitted annual (2006-2018) and quarterly (Q1 2010 to Q2 2019) GDP figures using the output and expenditure approaches in current and previous year's prices to Eurostat, and started sending partial data for the annual GDP using the income approach (2013-2018). However, considerable work is still needed to improve compliance with the ESA 2010 methodology. Seasonally adjusted quarterly national accounts are not available. Annual sector accounts have low compliance, though further

progress is being supported by EU funding. Some progress was made in national accounts by providing annual and quarterly data on employment in persons. However, the absence of employment data (hours worked; wages and salaries) is considered a serious gap.

Considerable efforts are also needed to develop government finance statistics (GFS) and financial accounts; there was no progress in the reporting period. Excessive deficit procedure (EDP) tables are sent to Eurostat since October 2014, but several tables remain blank and do not allow meaningful assessment. GFS and EDP are priority areas and also represent a basis for data in other areas (like national accounts). The lack of this data hinders further development with ESA 2010. The development of the roadmap for the rest of the tables in ESA 2010 needs to be given more attention.

The central bank compiles statistics on the balance of payments, foreign direct investment, and statistics on trade in services, partially aligned with the EU *acquis*. It also released data on external debt (for the period 2010-2018) for the first time as well as net international investment position (NIIP) for 2016-2018. In 2019, Monstat sent Eurostat its first data on international trade in services by country (for 2013-2018). The harmonised indices of consumer prices are medium compliant and aggregation inconsistencies prevent Eurostat from disseminating data. As regards the purchasing power parities framework it is largely compliant with EU standards.

On **business statistics**, Monstat sends Eurostat a number of structural business statistics, but further work is needed on their compliance. Short-term statistics improved and are now satisfactory, but foreign affiliates' statistics were not sent to Eurostat. The Business Register is largely compliant and the PRODCOM list is fully compliant with EU standards. Submission of transport statistics to Eurostat continued, including detailed reporting on railway and maritime transport statistics and road freight. Research and development data are partially in line with the EU *acquis*. Tourism statistics are largely compliant with EU standards.

During the reporting period, in the area of **social statistics**, preparations continued for the 2021 population and housing census. Monstat obtained access to all identifiers of the population register in August 2019; however, the address register is not yet established. Monstat performed a pilot census using traditional methods in April 2019 - the most likely solution is that a traditional census will be held, along with a pilot register-based census. The survey of income and living conditions (EU-SILC), the Labour Force Survey (LFS) and crime statistics are largely compliant with EU standards. On social protection data (ESSPROS), Monstat is improving in this regard, but there is still work to do. Data availability on migration should be further improved with data on migrant populations, acquisition of citizenship, and on emigration of non-nationals. Transmission of data for the enforcement of immigration legislation (EIL) statistics and residence permit data is yet to start. A gender equality index, based on European Institute for Gender Equality, was published for the first time in January 2020. As for public health statistics, Montenegro is not considered compliant and needs to put efforts to improve.

Progress continued in **agricultural statistics**, with the completion in October 2019 of a pilot agricultural census, but a full agricultural census is now only planned for 2022.

Energy statistics are mostly compliant with EU standards. In **environmental** statistics, waste statistics are compliant with Eurostat requirements.

5.19 Chapter 19: Social Policy and employment

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

Montenegro has **some level of preparation** on social policy and employment. **Good progress** was made during the reporting period with forward steps being made, illustrated by the adoption of the new labour law.

In the coming year, Montenegro should, in particular:

- implement the revised labour law, revise the anti-discrimination law, and introduce better quality employment measures aimed at young people, women, disabled people, and minorities;
- make greater efforts to address the grey economy, and more actively address issues related to safety at work;
- further the support to, and reform of, social protection, based on evidenced based policies with stronger links to both employment activation and social inclusion.

The revised **labour law**, intended to improve the functioning of the labour market was adopted by Parliament in December 2019. The law introduces a range of reforms including, simplification of dismissal procedures and extension of fixed term contracts (from 24 to 36 months), with greater protection of workers, while increased sanctions for undeclared work aims to reduce informality. The labour law and the linked anti-discrimination law are planned to be further aligned with the EU *acquis* in this area during 2020. Given its relevance both as a structural reform measure, and as one of the key pieces of legislation to align with the EU *acquis*, implementation and monitoring of the labour law should be a priority. Strengthened capacities of labour inspection services and enhanced coordination between labour inspectors and the Ministry of Labour and Social Welfare will be required in order to ensure that the change of the law will have an impact.

On **social dialogue** the Laws on Social Council and on the on representation of trade unions were adopted in 2018 and while there was good cooperation on the labour law, more time is needed to see if representation and consultation with social partners improves. Similarly, continuing focus needs to be placed on protecting workers rights, preventing discrimination of trade union activities, and in ensuring that the foreseen general collective bargaining agreement is concluded with due consultation process as soon as possible during 2020.

Concerning **health and safety at work**, the first ever Centre for professional rehabilitation was opened in October 2019 in Podgorica. The National Health Institute has limited impact to monitor relevant legislation, due to the fact that responsibilities have been spread amongst different institutions. A working group for drafting Amendments to the the Rulebook on safety requirements for the workplace has been established and it is expected to submit its work by the end of 2020. The occupational safety and health fund foreseen under the sector strategies (2010-2014 and 2016-2020) has not yet been established. From 1 January 2019 to 30 April 2020, there were 24 accidents at work, of which eight were fatal, 15 were serious, while one was reported as a collective accident.

On **employment policy**, Montenegro continues to implement its national strategy for employment and human resources development however, the effectiveness of the

implementation remains difficult to assess due to lack of systematically collected data via monitoring and evaluation activities. The unemployment rate stagnated at 15.2% in 2019. According to the 2019 Labour Force Survey data, the activity rate continues to improve, but is still low at 57.4%, while regional disparities persist, with unemployment disproportionately high in the north with 36.3% as compared to 5.5% in the coastal region. Long-term unemployment remains a major structural challenge, with 63% of the unemployed being out of work for more than two years. The most vulnerable groups on the labour market remain women, youth, Roma and low skilled workers. Of these the Roma and Egyptian community make up around 2% of the total registered unemployed.

The foreseen EU financed support to the Employment Agency should help it enhance its capacities and ensure a more efficient human resources management. In parallel, there is still insufficient effectiveness and coverage of active labour market policies which should be in place to assist jobseekers finding sustainable employment, with particular focus on re- and up-skilling. Moreover, strengthening employment activation by building stronger links between employment and social services, as well as links between vocational and higher education, remains crucial for increasing employment and removing potential disincentives to work. The fund for the Professional Rehabilitation and Employment of Persons with Disabilities is still not making the required impact, while the related draft law still requires revision. As a result, the adoption of the rulebook defining a range of work related provisions for disabled persons is not in place and full transparency of the use of the Fund is not yet established. In June 2020, the Government adopted the proposal to establish the Council for the care of persons of disabilities. On the informal economy, sustained efforts are still needed to tackle all forms of informality along with further reinforcement of labour inspections. Moreover, the Government must still adopt a new action plan to better coordinate efforts from different institutions involved, including those at central and local level. In addition, while there are plans underway, the Labour Market Information IT system of the Employment Agency has yet to be updated. Focus should be placed on implementing commitments taken under the Roma integration Road Map 2019-2021 to promote the formalisation of work. At present there is still not a follow up system in place to review its functioning and its impact. In April 2020, the Government adopted the Report on the Implementation of the Action Plan for Employment and Human Resources Development for 2019.

As regards **European Social Fund (ESF)** preparations, implementation of the second operational programme for human resources development (2015-2017) is on-going. This focuses on education, research, employment and social policies and aims at enhancing capacities within state bodies with a view to preparing their readiness to manage the ESF in the future. In parallel and in view of the COVID-19 pandemic a reallocation by the EU and the Montenegrin authorities was re-directed towards addressing social and economic needs.

On **social inclusion and protection**, the Action Plan 2020 for Implementation of the Strategy for Development of the Social and Child Protection System 2018-2022 and the Action Plan for 2020 to implement the Strategy for Development of the Social Welfare System for the Elderly 2018-2022 were adopted in January 2020. While some measures from relevant action plans have been implemented, there are as yet no adequate monitoring mechanisms and reports available and so the conditions for evidence-based policymaking are still not in place. Centres for social work need strengthened capacities, in order to support the transition from institutional service provision to community-based care for children with special needs, persons with disabilities and

the elderly. While many services are provided by civil society organisations and are funded via projects, some by-laws prevent these organisations obtaining the proper licenses for these types of services. Additionally, the survey of income and living conditions (SILC) statistics released in December 2019 still showed high risk of poverty and social exclusion with a figure of 31.4%, for 2018 signifying a 2.3 percentage point decrease compared to 2017. The Institute for Social and Child Protection continues to lack resources and social services provided at local levels are still deemed inadequate. The planned review of the social protection system is still needed in order to provide a clearer overview of how to help ensure to provide for social support and assistance to those in need while reinforcing links with employment activation. Additional efforts are needed to fulfil the recommendations of the report of the UN Committee on Economic, Social and Cultural Rights, notably regarding the amount of social benefits and adequate standard of living for socially vulnerable people, and particularly the unemployed and homeless people. Protocols adopted in relation to COVID -19 preventive measures in social and child welfare institutions seem to have been effective so far, as no beneficiaries were reported to have been infected during the reporting period. On **de-institutionalisation** of children in care, not enough has been achieved so to ensure that Montenegro continues successfully to set up community and family-based services. Greater efforts still have to be put in place so to ensure that a professional foster care system is in place for the future.

On **non-discrimination in employment and social policy**, some civil society organisations are still in the process of accreditation so that they can provide certain services, but at this stage their overall number remain low. Such obstacles affect the capacity of civil society organisations to conclude durable partnerships for service provision with line ministries. Furthermore no official reports on the implementation of the Roma and Egyptians social inclusion strategy and action plan are yet available and there remains insufficient evidence of the required advancement on the ground. Further efforts are needed so to have in place sustainable and effective services available to the Roma and Egyptian community and related monitoring and reporting should also be improved. While there has been progress with regard to the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) cooperation between the Ministry of Labour and Social Welfare and the LGBTI community should still be strengthened, in particular with regard to the social and health sectors, so to ensure effective implementation of the new LGBTI strategy (2019-2023) for which a national team for monitoring implementation was established in August 2019. Public hearings on the revisions of the anti-discrimination law were held in March 2020. Despite this, throughout Montenegro, civil society organisations remain insufficiently involved in decision-making

On **equality between women and men in employment and social policy**, notwithstanding measures which have been put in place, women remain vulnerable to discrimination in the labour market, resulting in lower participation and lower income generation rates and, in turn, hindering access to long-term employment contracts and access to paid maternity leave. Issues such the gender gap in employment and pay, sexual harassment in the workplace, affordable childcare, unpaid work and tax benefit systems remain largely unaddressed. Continued focus must be placed on pro-women initiatives, on tailor made active labour market measures which target women, and on legislative and non-legislative measures focused on work-life balance.

5.20 Chapter 20: Enterprise and industrial policy

EU industrial policy enhances competitiveness, facilitates structural change and encourages an enterprise-friendly environment that stimulates small and medium sized enterprises.

Montenegro is **moderately prepared**/has a **good level of preparation** on enterprise and industrial policy. **Some progress** was made on meeting last year's recommendations, in particular on the sector policy, with the adoption of a revised industrial policy. Both inter and intra-ministerial cooperation on technical and political level should be significantly increased to ensure consistency and coherence between different national key strategies and programmes, in particular on industrial policy, smart specialisation and the Economic Reform Programme.

In the coming year, Montenegro should in particular:

- focus on the implementation of revised industrial policy, in cooperation with relevant stakeholders;
- ensure continuous coordination of the industrial policy with other national key strategies.

On **enterprise and industrial policy principles**, amendments to the law on tourism and hospitality were adopted in April 2019. Montenegro is not yet aligned with the EU *acquis* on combating late payments and is encouraged to continue the efforts, initiated in 2019, towards full alignment.

On **enterprise and industrial policy instruments**, Montenegro continued implementing programmes for cluster development, regional and local competitiveness and modernisation of the manufacturing industry, providing small grants and financial assistance to projects in these areas. The Investment and Development Fund of Montenegro (IDF) provided financing worth EUR 241 million to the Montenegrin enterprises. In addition, the IDF signed an agreement with the European Investment Fund on access to the Loan Guarantee Facility (LGF) of the EU programme for the Competitiveness of Enterprises and SMEs (COSME). The loan guarantees available under the agreement total EUR 75 million over a three-year period. Organisations from Montenegro successfully participate in the COSME-financed programmes Enterprise Europe Network and Erasmus for Young Entrepreneurs.

On **sector policies**, following the completion of a mid-term review of the 2016-2018 Industrial Policy in March 2019, the government adopted in October 2019 a revised Industrial Policy of Montenegro for 2019-2023 and accompanying 2019-2020 action plan. Four strategic goals from the original 2016 Industrial Policy were retained, with some updates to their focus. The action plan allocates some EUR 811 million in funds for 2019 and 2020, although some 35% of this amount is expected to come from the private sector and donors. The plan places very heavy emphasis on access to funding and financial assistance to beneficiary companies, mainly through the IDF, and on the financing of projects in the energy and tourism sectors. Two of the four strategic goals - access to international markets and stimulating innovation, technology and entrepreneurship - receive together only 10% of the intended funding. In June 2019, the government adopted the **2019-2024 Smart Specialisation Strategy (S3)** (see Chapter 25). It aims to strengthen the industrial policy by improving the development of an innovation ecosystem through science-based innovation in a territorially balanced way. Teams and policy makers responsible for the Economic Reform Programme, the S3 and Industrial Policy strategies should fully cooperate to ensure consistency and coherence in the implementation of these three key policies.

In April 2020, the government adopted a programme of support for the economy and employees, to mitigate the negative consequences of COVID-19 pandemic. The programme includes six

types of subsidies, supporting over 100,000 employees in micro, small and medium enterprises. The subsidies are aimed at entrepreneurs and employees of companies whose operations were closed down or significantly reduced because of the measures introduced by the Ministry of Health.

5.21 Chapter 21: Trans-European networks

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

Montenegro remains **moderately prepared**/has a **good level of preparation** in the area of trans-European networks. **Some progress** was made in the reporting period, in particular on the 2019 recommendation concerning the adoption of the Transport Development Strategy for the period 2019-2035. However, the 2019 recommendations remain predominantly valid, and in the coming year Montenegro should in particular:

- continue implementing the new Transport Development Strategy with its annual action plan;
- strengthen the administrative capacities for trans-European networks in the areas of transport, telecommunications and energy;
- continue harmonising the legal framework with TEN-T and TEN-E Regulations.

On **transport networks**, Montenegro takes part in the Transport Community Treaty (TCT) and continues to participate in the Western Balkans Six Connectivity Agenda. It is involved in the TCT Regional Steering Committee meetings as well as other TCT technical committees (the railway, road safety, transport facilitation and road technical committees). The Montenegrin authorities are encouraged to continue and intensify cooperation under the Transport Community Treaty.

The new 2019-2035 transport development strategy and its action plan for 2019-2020 were adopted in June 2019. Its ambitious financing plan includes a number of core network projects and hinges on the assumption that significant financing will be raised through private capital.

In July 2019, the government adopted an updated single project pipeline, which includes 56 projects in the energy, transport, environment and social sectors as well as digital infrastructure for a total estimated cost of EUR 5.1 bn. However, the cost estimate of transport projects has not been updated since 2017.

On **infrastructure development**, construction of the Bar-Boljare highway continued on the priority section between Smokovac and Matesevo. The project is being implemented in the context of the trans-European transport network (TEN-T), which is part of the indicative extension of the Orient East-Med corridor in the Western Balkans. The priority section of the highway, which is being implemented with a Chinese loan, has suffered additional delays and cost overruns, aggravated by the COVID-19 outbreak. It is now expected to be completed by June 2021.

Under the Western Balkans Investment Framework, Montenegro applied for co-financing for the construction of the second section of the highway. However, the application is on hold pending the finalisation of the cost-benefit analysis for the entire Bar-Boljare highway. The study which

has encountered delays, is expected to set recommended standards and suggest means of financing for the remaining sections.

Progress continued on studies for the design of the Adriatic-Ionian highway, albeit with some delays. The upgrading of the Bar-Vrbnica railway *continued with EU funding*. In June 2019, WBIF approved a EUR 3 000 000 grant to prepare a comprehensive design study and tender documentation for the Golubovci–Bar section of the railway.

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

In the Ministry of Transport and Maritime Affairs the **institutional framework** changed with the creation of a road administration responsible for the development and maintenance of national major and regional roads. The state-owned company Monteput remains responsible for the development of highways and large scale road infrastructure, notably the Adriatic -Ionian expressway.

On **rail transport**, in April 2019 the Railway Directorate was reorganised into the Railway Administration to function as an independent administrative authority. However, practical implementation of safety and regulatory tasks still needs to be set out specifically in the legislative framework, given that the planned new railway law is yet to be adopted. The administrative and technical capacity of the four state-owned companies remained limited.

On **energy networks**, progress continued on interconnecting the electricity systems of Serbia, Bosnia and Herzegovina, Italy and Montenegro. This project is included on the projects of energy community interest list. The undersea cable interconnector between Montenegro and Italy became operational in November 2019. Work continued, with EU funding, on the concept design for the Ionian-Adriatic pipeline's routes through Montenegro and Albania, with the aim of finalising the study by September 2020. The project features on the list of projects of mutual interest. Some progress on energy connectivity measures continued in the reporting period.

Montenegro is yet to fully align its legislation with the TEN-T and TEN-E EU acquis. Legislative gap analysis and institutional capacity mapping is pending. On the trans-European communication networks, the Law on electronic communications is aligned with the EU *acquis*.

5.22 Chapter 22: Regional policy and coordination of structural instruments

Regional policy is the EU's main investment policy for sustainable and inclusive economic growth. Member States bear responsibility for implementation which requires adequate administrative capacity and sound financial management of projects' design and execution.

Montenegro is **moderately prepared** regarding regional policy and coordination of structural instruments. **Limited progress** was made over the reporting period particularly with view to planning and procurement which still need to be strengthened, and project preparation and strategic planning capabilities still need to improve.

In the coming year, Montenegro should in particular:

→ enhance efforts to implement the EU pre-accession programmes funding under indirect management;

- continue implementation of the action plan for meeting requirements deriving from EU cohesion policy;
- improve the capacities for project planning and preparation, with special emphasis on the single project pipeline.

On the **legislative framework**, the law on public private partnership entered into force in January and as a result a National Investment Agency was created, while the Secretariat for Development Projects ceased to exist. The role of the Technical Secretariat of National Investment Committee (formalised by adopting amendments to the Rulebook on internal organisation of the European Integration Office) has accordingly been transferred to the National IPA Coordinator. This may be a positive development, as it impacts directly on its supervisory role of the Single Project Pipeline, which is linked to the Western Balkans Investment Framework. The law on public procurement was also adopted in December. Both laws were however adopted without by-laws, rendering them unable to be implemented at present. Alignment with key parts of the EU *acquis* under other chapters remains a prerequisite for proper implementation of EU structural and investment funds.

On **institutional framework**, the existing situation with regards to the management of EU pre-accession assistance (IPA) remained unchanged. With the roll out of IPA II and the development of IPA III, it is essential that capacities and resources continue to be strengthened.

On **administrative capacity**, staff has been recruited in the contracting agencies, but the capacity of line ministries, for example the Ministry of Sustainable Development and Tourism, remains low. This creates a risk to the timely implementation of projects under its competence which are relevant for accession. Compared with the previous period, some improvements are noted in relation to retention policy, and in March 2019 a governmental decree has been implemented to allow for a 30% top up of the salaries of the employees who work with IPA. The working sector group on this chapter met several times during the year to discuss the recommendations of the previous Country Report, but no concrete outcomes from this group are yet visible.

On **programming**, the country continued its work on the sectoral approach under IPA II. A revised single project pipeline has been approved in July 2019, however, the lack of project maturity hinders future programming and implementation. Capacities for the management of capital/infrastructure investments remain weak, particularly at the level of line ministries.

Regarding **monitoring and evaluation**, the relevant committees set up under indirect management continue to meet regularly. The pace of contracting programmes under indirect management remains slow.

As for the **financial management, control and audit**, the government approved the first step for establishing the Management and Information System. The capacity of the Audit Authority improved while the internal audit for the whole IPA system has been assigned to a specialised unit in the Ministry of Finance, thus replacing the units within each ministry, as decided by governmental decision on internal audit in the public sector.

5.25 Chapter 25: Science and Research

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

Montenegro has a **good level of preparation** in this sector. **Good progress** was made on the two 2019 recommendations through the adoption of the Smart Specialisation Strategy and a marked improvement in Horizon 2020 participation.

In the coming year, Montenegro should in particular:

→ continue to implement the Smart Specialisation Strategy;

→ intensify investment in research and innovation and continue to increase participation in Horizon 2020.

On research and innovation (R&I) policy, implementation of the strategies continued, including support measures to stimulate an innovation culture, two pre-accelerator programmes for innovative start-ups, and work on legislative amendments to introduce stimulating fiscal measures. Positive steps were also taken towards 'open access' by adopting the revised national research infrastructure roadmap as well as a national Programme for implementation of open science principles.

Montenegro has a growing scientific base and the level of funding has been rising since 2017. R&I funding access has improved through training support to access international funding. Research and development (R&D) funding increased to 0.50% of GDP in 2018 (up from 0.37% in 2017).

In May 2020, Montenegro was included in the European Innovation Scoreboard as a modest innovator, marking an important step in improving its statistical system and monitoring the implementation of the Smart Specialisation Strategy of Montenegro 2019-2024.

In January 2020, the University of Montenegro (UoM) was awarded the 'HR Excellence in Research Award', acknowledging that it adheres to some human resources principles as set out in the European charter and code for researchers. To progress further, UoM must now implement the recommendations received. Two new centres of excellence (covering food science and biomedical science) started operating in January 2020, with funding of €1.8m earmarked over three years.

In June 2019, Montenegro was the first country in the region to adopt a smart specialisation strategy (S3), covering the period 2019-2024 and prioritising the areas of agriculture, energy, health, tourism and ICT. The S3 has high political backing and, with careful management and monitoring, has the potential to generate economic growth by developing the country's competitive advantages through an innovative approach. To this end, Montenegro should follow up on the technical recommendations resulting from a conditional positive assessment by the European Commission (December 2019) and ensure sustained and close collaboration between all relevant stakeholders.

The Innovation and Smart Specialisation Council was established in August 2019 while its secretariat started operations in March 2020. A new Law on innovation activities was adopted which provides for the establishment of an Innovation Fund to act as separate agency focused

specifically on S3 implementation. A Law on incentives for R&I development was also adopted. An online platform was launched (www.s3.me) to enable communication and visibility of S3 related activities. The 2019-2024 ‘collaborative innovation programme’ is one instrument for S3 implementation, aiming to transfer scientific R&I ideas from the academic community to the economy and include promising start-ups linked to S3 priority domains in future calls.

In response to the COVID-19 related pandemic, the Ministry of Science launched a call for research projects in the area of health and socio-economic recovery (€200 000). Along with the Innovation and Entrepreneurship ‘Tehnopolis’ centre and the newly established scientific–technology park of Montenegro, the Ministry coordinated the work of 3-D laboratories in academic and private sectors for the joint production of personal protective equipment.

The country’s participation in Horizon 2020 has improved and shows a very good trend for 2019, receiving EUR 3.2 m of direct EU contribution and reaching a success rate of 13,9% as compared to 12% for the overall Horizon 2020 programme.

Through the EU instrument of pre-accession assistance (IPA), 13 projects were selected under the collaborative grant scheme for innovative project ideas, and contracts were signed in March 2020 for equipping the three laboratories at Tehnopolis and for construction works at the science and technology park.

Montenegro engages actively with international bodies such as COST, CERN, IAEA, and EUREKA, which should produce positive effects on business-academia cooperation. Montenegro is committed to continue participating in the European Social Survey European Research Infrastructure Consortium (ESS-ERIC).

5.26 Chapter 26: Education and culture

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

There is a **good level of preparation** in this area. **Some progress** was made on the 2019 recommendations on enrolment rates in early childhood education and care, learning outcomes and Vocational Education and Training.

In the coming year, Montenegro should in particular:

- continue to improve enrolment in early childhood education and care and minimise drop-outs, especially of vulnerable groups;
- improve education sector governance and continue with relevant reform measures to improve the overall quality of education;
- establish an adequate monitoring and evaluation mechanism of practical learning at vocational and higher level education.

On **education and training**, implementation of the numerous education strategies continued. Latest figures (2018) show spending on education at 4% of GDP. Investments in school infrastructure and equipment resulted in new schools being built or refurbished, with further

projects in the pipeline. Though works to remove architectural barriers were completed at several schools during 2019, physical accessibility remains an important issue to address.

The importance of early childhood education and care (ECEC) continued to be promoted and kindergarten outreach services are available in some rural areas. Participation rates for 0-5 year olds showed a small increase from 48% in 2018 to 52% in 2019. To capitalise on the long-term social and economic benefits that ECEC can provide, the new preschool strategy currently under preparation should aim to substantially increase the enrolment figure (closer to the EU 95% goal) and invest more in qualified educators to prepare children for entry to compulsory education, especially those from vulnerable groups.

The Ministry of Education launched a scholarship competition for Roma and Egyptian high school and faculty students in September 2019. Albeit increased attendance rates and fewer drop-out cases can be observed since 2016, the overall number of school-going Roma and Egyptian children, and children with disabilities, remains low; most concerning is the low level of Roma and Egyptian children completing compulsory education. In this context, Montenegro should ensure close synergy when implementing the 2016-2020 strategy for social inclusion of Roma, the Poznan Declaration on Roma integration, and the more recent strategy for inclusive education 2019-2025.

Montenegro is currently preparing a draft lifelong entrepreneurial learning strategy (2020-2024), while further primary and secondary level schools are involved in classes developing key competences and basic skills, including socio-emotional learning, digital skills, critical thinking and problem solving.

Implementation of the national qualifications framework (referenced to the European qualifications framework in 2014) and moving to a learning outcomes approach prove demanding, as evidenced also by the persisting skills mismatch with labour market needs. The Ministry of Education continues to revise programmes and qualifications in cooperation with the business community. It is also committed to implementing and monitoring the 2015 Riga Conclusions on Vocational Education and Training (VET), as reflected in the revised VET strategy (2020-2024), adopted in January 2020. Proper implementation of the strategy will be an important element moving forward, given its focus on providing quality and inclusive education geared towards the labour market, and the need for green and digital skills.

After 3 years of implementation, the first evaluation of the dual education system showed increasing interest from employers and students, with some positive results on student retention rate. Recommendations include capacity building of in-company trainers and mentors in schools, and sustainability of the joint funding model between education and private sector. The Ministry of Education is considering the best options to establish an adequate monitoring and evaluation mechanism for VET. Recognition of non-formal and informal learning is also on the reform agenda to facilitate upskilling and reskilling (confined mainly to VET for now). Since January 2020, Montenegro's chamber of economy participates in the pilot EU mobility scheme for learners and teachers in the field of VET.

In May 2019, the government signed the first (3-year) financing agreement with the University of Montenegro (UoM) based on, among others, quality assurance, enrolment policy and improvement of study programmes. Transition to the reformed 3+2+3 study model is now underway at private higher education institutions, mirroring the UoM process. As a member of the European Association for Quality Assurance network, Montenegro applies some EU tools in

its quality assurance work, including external evaluation of institutions, study programmes and lifelong learning programmes. Implementing practical education in higher education programmes raises some challenges, and requires a structured monitoring and evaluation system to determine impact and effectiveness. A revised higher education strategy (2020-2025), is currently being prepared and was open to public consultation. In line with the 2019 Law on academic integrity, the government appointed the first Ethics Committee, responsible for the protection and promotion of academic integrity and prevention of plagiarism. UoM also established its own Ethics Committee.

Montenegro continues to participate actively in the EU Erasmus+ programme. In 2019, 1 379 incoming and outgoing participants were funded, while 9 capacity building projects were awarded in the area of higher education and 3 in the area of youth. Montenegro has also requested to join the eTwinning Platform for teachers. For the first time, six young volunteers from Montenegro participated in the European Solidarity Corps.

In response to COVID-19, the Ministry of Education actively provided a variety of distance-learning opportunities for the different education levels, including a portal for teacher-student communication with classes divided by years and subjects, as well as a dedicated YouTube channel with recorded classes. The project *Learn from home* (Uci doma) which includes the AMPLITUDO platform received very positive reviews.

The PISA 2018 results (international student assessment in mathematics, science and reading) showed limited improvement from 2015 and remain below the OECD average. As PISA is seen as one indicator of whether a school system is preparing students for the future, implementation of the policy recommendations in the 2019 action plan should be accelerated to aid ongoing efforts to improve the overall quality of teaching and student achievement. The country also participated in TIMSS 2019 and will be take part in the PIRLS 2021 assessment.

On **culture**, the Ministry of Culture continued to invest in creative hubs and industries, infrastructure and arts development. Further investment in mapping the local creative start-up ecosystem would be beneficial for added stimulus. In March 2020, the Ministry announced a public call for co-financing cultural and artistic activities of public interest to support and protect unemployed artists and various operators affected by the COVID-19 pandemic. Amendments to the Law on the protection of the cultural and historic region of Kotor aim to contribute to better conservation. Montenegro should carefully implement the protection measures to guard its UNESCO heritage status. Numerous events were organised as part of the 2019 European Heritage days. The Regional Youth Cooperation Office supports intercultural youth exchange programmes. While there was no successful project under the culture strand of the 2019 Creative Europe Programme, Montenegro had two successful grants in the new mobility action ‘i-Portunus’.

The Youth Strategy 2017-2021 is being implemented and two thirds of local municipalities have youth action plans. In line with the 2019 Law on **youth**, the government adopted a programme to strengthen youth service’ capacity, and in June 2020 adopted secondary legislation to enable the establishment of a National Youth Council. Funding was allocated to reconstruct, adapt and equip youth clubs, with new clubs foreseen to open this year in the north of the country. More than 5 000 free European youth cards were distributed to young people nationwide. Montenegro actively joined the fifth edition of the European Week of **Sport** under the framework of the European Commission’s initiative *European Week of Sport Beyond Borders*.

5.27 Chapter 27: Environment and climate change

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

Montenegro has **some level of preparation** in this area. **Some progress** was made with the international protection granted to Ulcinj Salina, the development of an action plan for chapter 27, and further legislative alignment with the EU *acquis*, in line with the national strategy. Significant efforts are needed on implementation and enforcement, in particular on waste management, water quality, nature protection and climate change. The 2019 recommendations remain valid and in the coming year, Montenegro should considerably step up ambitions towards a green transition, and continue focusing on:

- effectively implement the national strategy for transposition, implementation and enforcement of the EU *acquis* on environment and climate change, especially in the waste, water and nature protection sectors;
- take urgent measures to preserve and improve the ecological value of protected areas and potential Natura 2000 sites such as Ulcinj Salina, Lake Skadar, the Tara river and other river courses;
- develop its National Energy and Climate Plan in line with the Energy Community recommendations.

Environment

On **horizontal legislation**, Montenegro developed in 2019 a new action plan to better prioritise alignment with and implementation of the EU *acquis* on the environment and climate change. In December 2019, the government adopted the third report on the implementation of the previous action plan for the 2018-2020 period. The report shows slow implementation in most of the policy areas, with 68% of the planned actions for 2018 and 2019 completed by the end of 2019. According to the report, not a single planned activity was completed in 2019 on waste management and climate change. Implementation was about 30% for water quality and nature protection, while figures around 70% were registered for horizontal legislation, air quality and industrial pollution. The Eco Fund established in November 2018 is not operational yet. The separation of legislative and executive competences in the area of environment has been ensured in the May 2019 secondary legislation on the internal organisation of the Ministry of Sustainable Development and Tourism and of the Nature and Environmental Protection Agency (NEPA). Remaining challenges to be urgently addressed are the lack of sufficient administrative capacities at central and local level and inspection bodies, insufficient inter-institutional coordination and lack of a sustainable financial framework.

On **air quality**, in June 2019 the government adopted the 2018 report on the implementation of the action plan of the national air quality management strategy. During the reporting period, the definition of air quality zones was revised and the number of air quality monitoring stations increased from 7 to 10, however the real-time air quality reporting system is not operational. The pollution levels in Pljevlja exceed on regular basis the mean PM10 concentration limits. In March 2020, Montenegro re-established reporting on air pollution emission and provided all missing data for the period 2011-2018 to the Secretariat of the convention on long-range

transboundary air pollution. A programme for monitoring the quality of liquid fuels of oil origins for 2020-2021 has been adopted.

Regarding **waste management**, Montenegro remains partially aligned with the EU *acquis*. No progress has been made in the implementation of the waste legislation. Considerable efforts on strategic planning and investments are needed to implement the national strategy for waste management until 2030 and the 2015-2020 national waste management plan. Work on the new law on waste management continued. Decisions on separate waste collection were adopted in the municipalities of Berane, Zabljak, Plav, Rozaje, Kolasin, Gusinje, Andrijevica, Ulcinj and Petnjica. The details of the country's waste management model and the modalities of its implementation remain to be clarified. There is an urgent need to remedy illegal waste disposal and the use of temporary waste disposal in all municipalities. Infrastructure for separate waste collection and recycling needs to be established across the country.

Alignment on **water quality** remains limited. Water management plans for the Danube and Adriatic basins remain to be finalised. The network of hydrological surface stations for monitoring the quantity of surface waters and a network of stations for groundwater monitoring were established, and software for processing the collected hydrological data was acquired. The largest source of pollution of surface and groundwater is untreated wastewater. In order to address this, in October 2019, the government adopted the municipal wastewater management plan for 2020-2035. Parliament adopted the law on marine environment protection in December 2019, contributing to alignment with the Marine Strategy Framework Directive. The development of flood hazard maps and flood risk maps has advanced. Investments in hydropower need to comply with national and international nature protection and water management obligations, ensure public participation and consultation, and guarantee high quality environmental impact assessment (EIA) reports that include cumulative impacts on nature and biodiversity.

On **nature protection**, Montenegro has partially aligned with the EU *acquis*. In June 2019, the municipality of Ulcinj proclaimed Ulcinj Salina as a nature park, which in September 2019, was also included on the Ramsar list, declaring it a wetland of international importance. The Zeta River valley was designated as a nature park in December 2019. While further support for the maintenance of Ulcinj Salina comes from the national budget, resolute and urgent action is still required for its sustainable management and protection, including, first and foremost, ownership clarification. Some mitigation measures were taken to monitor and improve the state of the environment in several sensitive areas at Skadar Lake and the Tara River. Further progress is needed to designate marine protected areas and to establish a comprehensive system of strict species protection to be applied, among others, for seismic surveys, hydropower and touristic developments. A military training area was established on the Sinjajevina mountain, which is part of the UNESCO Tara River biosphere reserve. Its operation should be planned and monitored in line with the UNESCO principles of socio-cultural and ecological sustainability. Mapping for Natura 2000 has continued. A law on alien and invasive alien species of plants, animals and fungi was adopted as well the revised National Strategy on Forest and Forestry and a Forest Reduction Plan for forests degraded by the effect of abiotic and biotic factors. In March 2020, the Parliament ratified the law on Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation to the convention on biological diversity.

On **industrial pollution control and risk management**, Montenegro is partially aligned with the EU *acquis*. The Law on industrial emissions was adopted in March 2019, followed by relevant secondary legislation. In November, the government adopted a decree on types of activities and plants for which an integrated permit is issued.

On **chemicals**, Montenegro is partially aligned with the EU *acquis*. In March 2019, the government adopted the 2019-2022 national chemical management strategy and action plan. In July 2019, the government adopted the national plan for the implementation of the Stockholm Convention, while in August 2019, it adopted the final report on the implementation of the action plan for the 2015-2018 Chemical management strategy.

On **noise**, in July 2019, Podgorica municipality adopted the action plan for protection against noise by 2024 for its territory and for the Golubovci municipality.

On **civil protection**, Montenegro has been a member of the Union Civil Protection Mechanism since April 2015. The COVID-19 pandemic highlighted the need to strengthen the legal framework and institutional capacities as well as human and financial resources of civil protection authorities also with regard to health emergencies. Montenegro is encouraged to step up its cooperation in the framework of the Union Civil Protection Mechanism (UCPM). Montenegro could contribute more to the mechanism by registering experts or response capacities in the voluntary pool and participating regularly in the committees and working groups established under the Mechanism. The country still needs to connect with the Common Emergency Communication and Information System (CECIS). As a precondition to CECIS, Montenegro needs to establish the Secure Trans European Services for Telematics connections between Administrations (sTESTA). January 2020 saw the adoption of the 2019 report on the action plan implementing the 2015-2018 disaster risk reduction strategy 2018-2019 and the strategy's 2020-2021 action plan.

Climate change

Montenegro's level of alignment on climate change remains limited. Montenegro has a climate change strategy in place, but has to intensify its work to ensure consistency with the EU 2030 climate and energy policy framework. It also needs to ensure that its strategy is integrated into all relevant sectoral policies and strategies. In December 2019, the framework law on climate change was adopted. In line with this law, a decree was adopted in February 2020, which ensures the establishment of a national carbon dioxide emissions trading system. Considerable work is still required to align with the EU *acquis*, such as to incorporate remaining elements of the EU Emissions Trading System (ETS), the Effort Sharing Regulation and the Monitoring and Reporting Mechanism (MMR). As for the UN Framework Convention on Climate Change (UNFCCC), the third national report for Montenegro on climate change is being prepared in line with the UN Framework Convention on Climate Change.

5.28 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, patients' rights and communicable diseases.

Montenegro is **moderately prepared** on consumer and health protection. **Some progress** can be reported on last year's recommendations regarding alignment to the *acquis*, and notably on tobacco control and smoking in public places. However, last year's recommendations were not

all fully met, further alignment is still needed and as implementation capacity and data provision remain inadequate in several areas.

In the coming year, Montenegro should:

- complete the alignment of national legislation with the EU consumer protection *acquis*;
- complete the alignment of national legislation with the EU health protection *acquis*, notably on patients' rights in cross-border health care and substance of human origin, and start to implement it fully;
- ensure the necessary implementation capacity to implement the EU *acquis*.

Consumer protection

Regarding the **legislative framework for consumer protection**, Montenegro's legal basis is designed to be aligned with the EU *acquis* on product safety. The amended Law on consumer protection was adopted in November 2019. This is designed to align with some of the EU *acquis* on consumer rights and on out-of-court settlement of consumer disputes. However, further alignment is necessary on consumer rights, consumer credit, alternative dispute resolution, and with the latest EU *acquis* on consumer protection rules.

In the reporting period, the Administration for Inspection Affairs performed 18,662 inspections in the field of consumer protection, which identified 4,577 irregularities leading to administrative measures.

On **product safety**, Montenegro reported that 6,124 inspections were made. Some 5,113 in the context of proactive surveillance and 1,011 in reactive surveillance, identifying 822 dangerous products (42,211 items). Of these, 386 products (9,450 items) were classified as dangerous, representing a serious risk, and were withdrawn from the market. Some 106 products (1,685 items) were destroyed. Administrative measures were imposed accordingly.

Public health

On **public health**, national legislation on healthcare is partly aligned with the EU *acquis*. Montenegro has developed 10 strategic documents in the field of health protection, including health policy until 2020. One of its priorities is extending life expectancy, which remained at the same level as in 2018 (76.8). The implementation of the 2015-2020 master plan for health development continued in 2019, but the country's health budget decreased slightly compared to 2018 (6.18%), and was not sufficient to implement various preventive and public health measures. The over-prescription of medicines is still a matter of concern. Efforts to tackle anti-microbial resistance were not sufficiently supported due to insufficient communication and insufficient actions aimed to improve health literacy. There was no external survey assessing corruption affecting the health sector.

On the **health information system**, a unit in the Ministry of Health was established to manage the new integral health information system, but it currently has only two staff members. This system is complex, as it has to cover all state-owned medical institutions. It needs to be further improved in order to enable effective provision of quality health services to all patients, better management of the health system and the collection of data necessary for advanced public health reporting.

Regarding **tobacco control**, the Law on restriction of use of tobacco products was adopted in July 2019. It is designed to align with the EU *acquis* on: (i) the manufacture, presentation and sale of tobacco and related products, (ii) on the advertising and sponsorship of tobacco products, (iii) on the prevention of smoking, and on (iv) initiatives to improve tobacco control and on smoke-free environments. As a result, a smoking ban in public places has been in force since 1 August 2019. The law's implementation is monitored by the relevant inspection services.

On **blood, tissues, cells and organs**, Montenegro updated its action plan on substances of human origin, and started a project to improve the IT monitoring system. The amended Law on removal and transplantation of human organs for the purpose of treatment entered into force in December 2019. In December 2019, the British 'DAS' agency carried out a second surveillance check of the national Blood Transfusion Institute, in relation to re-certification of two ISO certifications (ISO 9001:2015 for quality system and ISO 27001:2013 for information security). This resulted in a positive assessment. Montenegro continued with promotional activities on voluntary blood donations. However, the planned action on substances of human origin has not yet started.

In the field of **serious cross-border health threats**, including **communicable diseases**, national legislation on healthcare is partly aligned with the EU *acquis*, but patients' rights in cross-border healthcare need to be addressed. There was some progress in the reporting period on (i) alignment regarding reporting infectious diseases, hospital-acquired infections, conditions and deaths from these diseases, (ii) the list of infectious diseases subject to epidemiological control and to the application of measures and control of infectious diseases, and (iii) definitions of cases of infectious diseases. The 2019 programme of compulsory immunisation of the population against certain infectious diseases was implemented, but timely immunisation against some diseases is still at a low level.

In response to the COVID-19 outbreak, precautionary measures as per the recommendations of the Institute for Public Health included a nationwide curfew, social distancing, a ban on public gatherings and public and religious ceremonies. All sports and recreational activities were banned and domestic bus, rail, and taxi services were suspended. One municipality and parts of two others were placed in lock-down. Schools, restaurants, and cafés were closed and the number of customers in supermarkets limited to 50. Self-isolation and quarantine periods were imposed (however, a list of all persons subject to measure of self-isolation was published - a review of constitutionality of this measure is underway, and at one point a list of all the people in self-isolation was leaked – a criminal investigation of this is underway). These measures were phased out gradually in May, as cases declined. Kindergardens were re-opened on 1 June the day when travel into the country was also permitted for certain nationalities, based on epidemiological criteria.

Montenegro introduced legislation on reporting communicable diseases, infections, cases and deaths, and the list and definitions regarding epidemiological monitoring, prevention, and suppression. Five provisional hospitals for medical treatment persons suffering from COVID 19 were prepared and equipped, as were ten quarantine facilities. Salary bonuses of up to 15% were given to all medical staff. Montenegro provided data to the European Centre for Disease Prevention and Control. It also joined the EU Joint Procurement Agreement and the EU Health Security Committee, and received material from JRC to control COVID tests, as well as EUR 3 million in EU funding to enabling it to buy urgently needed medical equipment and supplies. Montenegro adopted a new strategy for the **improvement of mental health** (2019-2023), along with a 2019-2020 action plan. However, there was no progress on the provision of

data on the proportion of mental health care provided by institutions compared to community-based care.

On **preventive measures**, some data were provided for both the nutrition and physical activity of school children, carried out under the aegis of the WHO European Obesity Surveillance Initiative. A national action plan to improve nutrition (2019-2020) was adopted, as was the national strategy for the prevention of alcoholism and alcohol-induced disorders. This was followed by workshops for primary and secondary students on healthy life styles, delivered by physicians. However, some civil society organisations indicate that there were insufficient activities to reduce alcoholism and prevention of alcohol-induced disorders.

On **drug abuse prevention and harm reduction**, Montenegro continued to implement its 2019-2020 action plan of the 2013-2020 strategy for the implementation of the drug-abuse prevention. Guidelines on providing aid to drug addicts were adopted and are being implemented. Civil Society's involvement in drug abuse prevention activities supported by the state budget was encouraged. However, some organisations found the funds for the implementation insufficient. The European school survey project on alcohol and other drugs (ESPAD) was conducted and was followed by some interactive sessions in primary and secondary schools.

On **health inequalities**, access to healthcare services appears to be available for all vulnerable groups. However, it is reported that treatment options for drug users are limited and almost non-existent for children. A survey found that over 95% of domiciled Roma and Egyptian population have medical cards, compared to 75% of displaced Roma and Egyptians.

5.29 Chapter 29: Customs union

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

Montenegro is **moderately prepared** for customs union and made **some progress** during the reporting period, advancing preparations for accession to the Convention on common transit procedure, and implementing actions foreseen for 2019 in the multiannual Trade Facilitation Strategy 2018-2022, thus partially fulfilling last year's recommendations.

In the coming year, Montenegro should in particular:

- continue preparations for accession to the Convention on a common transit procedure by establishing an EU-compatible computerised transit system;
- further implement trade facilitation measures in order to reduce administrative inefficiencies and the time needed for customs clearance, in line with the Trade Facilitation Strategy 2018-2022 and the Economic Reform Programme 2020-2022;
- enhance capacity building in the customs administration and ensure adequate staffing levels for the IT department.

On **customs legislation**, the degree of alignment with the EU *acquis* is high. The new Customs Code fully aligned with Union Customs Code was finalised and subject to public consultation. Montenegro ratified the UNIDROIT Convention on stolen or illegally exported cultural objects and amended the law on protection of cultural property, in March and May 2019 respectively. In December 2019, implementing legislation was adopted to the law on customs service on

monitoring, intercepting and examining vehicles, passengers and baggage, and on issuing warnings and warrants by authorised customs officers.

Montenegro also amended implementing legislation on Authorised Economic Operators (AEO) aimed at alignment with the EU *acquis*; the amendments entered into force. Starting from November 2019, economic operators may apply for AEO status.

Montenegro is implementing the Regional Convention on Pan-Euro-Mediterranean preferential rules of origin. Following the entry into force of trade facilitation measures under the CEFTA agreement (Additional Protocol 5), customs administration signed agreements with other administrative bodies to ensure information sharing and mutual assistance on customs matters. Amended CEFTA protocol of origin, introducing full cumulation and prohibition of duty drawback, is effective as of July 2019.

Montenegro needs to further align its legislation on drug precursors and customs security and to adopt implementing legislation on the export control of cultural goods. A number of customs exemptions, not laid down in the EU Customs Code are still applied. Fees are still charged to lorries in inland customs terminals located in privately owned facilities, which is not in line with the EU *acquis*.

On **administrative and operational capacity**, Montenegro is continuing to implement its 2019-2021 business strategy, in accordance with the action plan. Implementing legislation on the internal organisation of the customs administration was adopted in May 2019, together with strategies on customs' human resources, management, training, modernisation of IT infrastructure and public relations. Montenegro took action to enhance capacities in financial investigations, including on the recovery of assets and proceeds of crime, and strengthened measures on anti-corruption and integrity of customs officers. Ensuring adequate staffing of the IT department still needs to be better addressed, in view of numerous IT development projects.

Further operational progress was made towards accession to the Transit Convention and establishing a new computerised transit system (NCTS). Simplified procedures for customs clearance of express consignments were implemented and e-manifest application for such consignments became operational, allowing for pre-processing of shipments before their arrival. Preparations for the accreditation of the customs laboratory were stepped up and several tender procedures for the procurement of laboratory equipment were successfully completed.

On the collection of customs debt, the model for the write-off of the customs debt needs to be established jointly with the Ministry of Finance. Some improvements are observed in import and export procedures thanks to gradual implementation of 2018-2022 Trade Facilitation Strategy. In the context of CEFTA Protocol 5 implementation, post-clearance checks were reinforced to reduce clearance times. In addition, the development of supervisory IT system introducing chronological case management of customs frauds and irregularities started in September 2019, with its integration into the Customs Information System expected by Q3 2020.

The Customs Administration is a member of the Intellectual Property Rights Coordination Team and participates in joint actions of the working group aimed at suppression and prevention of intellectual property rights infringements. Revenue collection by the Customs Administration in 2019 was EUR 801 million, a 5.60 % increase in comparison with 2018. Of particular note is a 14% year-on-year increase in the collection of excise duties on tobacco.

As regards illicit tobacco trade, supervision activities have intensified at the free zone in the port of Bar, including joint control actions with the police. Better IT functionality enables customs authorities to access the IT systems of the port operators and better control tobacco movements. Still, significant challenges remain in reducing illicit tobacco trade. In particular, the presence of offshore letterbox companies at the free zone in the port of Bar and their role in the tobacco supply chains remains a major source of concern. A wider control of the companies operating in the free zone and of their activities would make the fight against cigarette smuggling more effective. Further efforts should be invested in capacity building, hiring human resources and enhancing international cooperation in this regard. The Customs Administration started developing electronic system for management and security printing of excise stamps, but implementation of the WHO Protocol to eliminate illicit trade in tobacco products is still pending. The restarted cigarette production by the main Montenegro's tobacco company would require full implementation of the measures foreseen by the Protocol.

Customs Administration is part of the CEFTA coordination body, established in March 2020 with the aim of coordinating measures for uninterrupted cross-border trade during the COVID-19 crisis.

5.30 Chapter 30: External relations

The EU has a common trade and commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules in the field of humanitarian aid and development policy.

Montenegro has reached a **good level of preparation** in this area. **Some progress** was made on the 2019 recommendation concerning the Regional Economic Area (REA) with the adoption of Additional Protocol (AP) 6 to liberalise trade in services. The 2019 recommendation on dual-use goods remains valid.

In the coming year, Montenegro should in particular:

- adopt legislation, in line with the EU *acquis*, on export controls of dual-use goods ;
- implement actions under the multiannual action plan for the development of REA: in particular, ensure the full implementation of CEFTA AP 5 on trade in goods, ratify and implement CEFTA AP 6 on trade in services, negotiate and ensure a swift implementation of CEFTA AP 7 on dispute settlement, adopt regional standards for international investment agreements and pursue the implementation of the 'individual reform action plan' (IRAP) on investment.

On the **common commercial policy**, Montenegro continued to coordinate its positions with those of the EU, including within the WTO. Montenegro adopted the 2018 implementation report concerning the ambitious trade facilitation strategy 2018-2022. Additional efforts should be invested to ensure the timely implementation of the strategy and related action plan and to monitor the process. In June 2019, Montenegro submitted notifications under Articles 1.4, 10.6.2 and 12.2.2 of the WTO Trade Facilitation Agreement and later, in August 2019, submitted a notification of category B and C commitments.

Montenegro continued to align its national control list of dual-use goods with the 2019 EU regime on exports, transfer, brokering and transit of these items. The draft Law on export control of dual-use goods is yet to be adopted. In this respect, Montenegro should continue to invest in

upgrading its administrative and control capacity. Montenegro's application process to join the Wassenaar Arrangement is ongoing, while the country is also considering joining the Australia Group.

Montenegro has legislation in place aimed at implementing the Kimberley Process certification procedure, including provisions on sanctions.

A regulation on export credit insurance against non-market risks is being prepared following the adoption of amendments to the Law on the investment and development fund (which regulates the issuing and financing of export credits).

Montenegro continued its participation in CEFTA. It is important that Montenegro implements Additional Protocol 5, based in particular on the decisions taken by the CEFTA Joint Committee on Authorised Economic Operators, fruits and vegetables, and risk management strategy for customs. Ratification and implementation of the newly adopted Additional Protocol 6 on liberalisation of trade in services is also needed. Regarding Additional Protocol 7 on trade dispute settlement, a constructive approach by Montenegro would be important to ensure the completion of negotiations in 2020. Within the Regional Economic Area framework, standards on investment at regional level remain to be adopted to reflect the latest EU policy developments; to be used when negotiating future investment treaties with third countries. Montenegro should reflect this in the new Bilateral Investment Treaty model it is currently preparing.

Montenegro should continue to strengthen the administrative capacity of services in charge of CEFTA and WTO matters. On **bilateral trade agreements**, Montenegro signed amendments to its free trade agreement with Turkey in July 2019; these ensure additional liberalisation of trade in agricultural products and access to the services market. Montenegro is also amending its free trade agreements with EFTA countries as regards rules of origin.

On **development policy** and **humanitarian aid**, implementing legislation is yet to be adopted for the Law on international development cooperation and international humanitarian assistance. A database of donor support projects - using the OECD Development Assistance Committee methodology – is yet to be developed.

Montenegro continued its preparations on this chapter in accordance with its overall action plan on external relations.

5.31 Chapter 31: Foreign, security and defence policy

Member States must be able to conduct political dialogue in the framework of the foreign, security and defence policy, to align with EU statements, to take part in EU actions and to apply agreed sanctions and restrictive measures.

Montenegro has a **good level of preparation** in this area. **Some progress** was made during the reporting period by enhancing the legislative framework on security and defence and combatting hybrid threats. Montenegro continued to fully align with EU positions and to participate in EU crisis management missions and operations under the common security and defence policy.

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

On **common foreign and security policy**, Montenegro continued its 100% alignment with all relevant High Representative declarations on behalf of the EU and Council Decisions. In December, Parliament adopted the amended Law on international restrictive measures entrusting responsibility for the prevention of money laundering and terrorist financing to the police administration. In March 2020, the government adopted an amending decision concerning the sovereignty and independence of Ukraine (which contains a consolidated list of persons and entities against which restrictive measures have been imposed).

Montenegro maintains a bilateral immunity agreement with the United States, granting U.S. citizens exemptions from the jurisdiction of the **International Criminal Court**. In doing so, the country does not comply with the EU common positions on the integrity of the Rome Statute or related EU guiding principles on bilateral immunity agreements. Alignment with the EU position is therefore needed.

Regarding **non-proliferation**, the government adopted the 2018 annual report on the implementation of the 2016-2020 weapons of mass destruction non-proliferation strategy. A new action plan (2020-2024) is being prepared aimed at implementing UN Security Council Resolution 1540 which obliges states to refrain from helping non-state actors to develop, procure, produce, possess, transport or use nuclear, chemical or biological weapons, as well as their means of delivery. Montenegro continued to participate in the EU cooperation programme on arms export control. This includes support for drafting appropriate legislation and relevant training of licensing and law enforcement officials.

Montenegro remained actively engaged in the implementation of the 2018 Regional Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of small arms and light weapons and their ammunition in the Western Balkans.

On **security and defence**, implementation continued of the EU-Montenegro agreement on security procedures for exchanging and protecting classified information. Parliament adopted the defence strategy in June 2019, which provides a framework for the developing the defence sector.

Montenegro continued good **cooperation with international organisations** and remains an active member in NATO exercises and missions.

Montenegro actively participated in EU crisis management missions and operations under the **common security and defence policy**, namely EU NAVFOR ATALANTA and EUTM Mali. Montenegro continued to take part in the UN operation MINURSO and in the UN Peacekeeping Force in Cyprus. Members of the Montenegrin armed forces continued to serve in the NATO-led Resolute Support mission in Afghanistan and the KFOR mission in Kosovo, while in December two members of the armed forces members were deployed to the NATO mission in Iraq.

Montenegro intensified its efforts to combat **hybrid threats**. Hybrid risk survey was launched with Montenegro and country submitted the input in June 2019 as part of a process aimed at identifying vulnerabilities to hybrid threats. In May 2019, it became a member of the European Centre of Excellence for Countering Hybrid Threats (Hybrid CoE). In August 2019, it applied to join the NATO Cooperative Cyber Defence Centre of Excellence in Tallinn.

5.32 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** on financial control. **Limited progress** was made in the reporting period on last year's recommendations. There were useful developments regarding internal control, via the adoption of ten pieces of secondary legislation related to the Law on governance and internal control and the adoption of a financial management and internal control manual. The SAI also continued work on its internal guidelines. However, further efforts are needed to address managerial accountability and to strengthen the functioning of internal control and internal audit at all levels of the administration and in state-owned companies. Therefore, the Commission's 2019 recommendations remain largely valid. In the coming year, Montenegro should in particular:

- adopt, and start implementing a strategy on improving governance and public internal financial control;
- ensure that the external audit methodology is completely aligned to the latest International Standards of Supreme Audit Institutions (ISSAIs);
- strengthen the coordination capacity of the National Anti-fraud Coordination Service.

Public internal financial control (PIFC)

Montenegro's **strategic framework** for PIFC is partially in place. After the execution of most activities planned under the 2013-2017 PIFC strategy, the finalisation of a new strategic document should be ensured as soon as possible. Secondary legislation for the Law on governance and internal control was adopted in December 2019, thus enabling the application of the legal provisions adopted back in November 2018. In addition, secondary legislation was adopted in November 2019 that ensures full budget coverage by internal audit at both central and local level.

Montenegro has not yet adopted a comprehensive policy paper focusing on **Managerial accountability** and delegation of authority. Accountability mechanisms between ministries and subordinated bodies were improved by the Law on the state administration, and by the decree and methodology on strategic planning, which started being phased in during 2019. In line with the first government work plan (2018-2020) each public entity is expected to develop organisational objectives in line with the overall government vision. The state budget was not yet prepared according to programme budgeting and a mid-term budgetary framework. This delays the transition towards result-based management. The managerial culture within public institutions continues to be highly centralised, and there is resistance to delegating budget responsibilities or decision-making powers to middle management. Primary focus continues to be on compliance, rather than on performance.

Internal control legislation is in line with international standards. A financial management and control manual is in place and was updated. A system for detecting and acting on information about financial irregularities was developed and budget users are increasingly adopting risk registers, but risk management is not consistently applied by all budget entities. Only half of the

budget entities have adopted action plans to improve the financial control systems. The centralised budget inspection function in the Ministry of Finance is not yet operational. Exceptional management and control procedures or derogations applied by the authorities during the COVID-19 crisis need to be well documented, accompanied by adequate safeguards and considered for special audits.

Internal audit practice, rules, and standards are regulated in line with international standards. All but one of the institutions required to establish an internal audit unit at central and local level have done so, and, except three out of 26, all of them have quality assurance programmes and improvement in place. The number of internal auditors continues to increase and most have a national and/or international certificate as internal auditors. There is a national internal audit training and certification system and a long-term professional development programme for certified internal auditors. The rate of implemented audit recommendations also continues to increase (to 97.5% in 2019 from 94.25% in 2018), but recommendations still focus more on compliance than value for money.

The **Central Harmonisation Unit** is responsible for developing and disseminating methodological guidance on PIFC, and for monitoring and reporting on implementation. The CHU prepares an annual report to inform the government about the development of the internal control systems in the public sector. It also contains the activities planned to improve the effectiveness of these systems.

External audit

Montenegro's State Audit Institution (SAI) has been established in line with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI). The SAI has a comprehensive mandate, covering all public financial operations, including municipalities, state-owned enterprises and international organisations. It has the authority to undertake a full range of financial, regularity and performance audits, with unrestricted access to the premises, records and documents of the audited bodies. It has improved its **institutional capacity** in terms of management and auditing staff, and is implementing its 2018-2022 strategic development plan. The SAI's continued obligation to audit political parties remains a significant burden on its resources and finances, which potentially underlines its independence to plan its activities. The SAI has standardised audit processes for financial, regularity and performance audit, and most of its auditors are certified and have access to training on the basis of a needs assessment. SAI performed three performance audits in 2019, compared to four in 2018.

With regard to the **quality of audit work**, the SAI adopted guidelines on auditing the final statement of accounts and guidelines for auditing the annual financial statements of political parties. A manual for financial and regularity audit in accordance with the ISSAI's standards was finalised and its adoption should be ensured as soon as possible. In addition, the SAI also adopted an updated instruction on methodology for performance auditing. The SAI submits an audit report to parliament on the government's final statement of accounts and its annual report on performed audits. All SAI reports are published but the submission of individual audit reports to parliament is an exception. Following the adoption of recommendations on the final statement of accounts by parliament, the government develops an action plan for their implementation and reports on it regularly. Individual audited entities have to submit a report to the SAI on the implementation of recommendations. However, parliament does not ensure structured follow-up

on SAI recommendations, although the SAI may decide to perform follow-up audits. The overall implementation rate of SAI recommendations, however, needs to be further improved.

Protection of the EU's financial interests

While Montenegro is largely aligned with the EU *acquis* in this area, it is not aligned with regard to its criminal law with the EU *acquis* on the fight against fraud to the Union's financial interests. A 2019-2021 national anti-fraud strategy was adopted in May 2019. The strategy provides a basis to improve the capacity of the **national anti-fraud coordination service** (AFCOS) and the functioning of the AFCOS network. Montenegro ensures **cooperation with the European Commission** during investigations. It also made progress on developing a solid track record on reporting of irregularities via the online irregularity management system, reporting 27 cases in 2019 (making a total of 42 by the end of 2019) via the online irregularity management system, but needs to ensure a solid track record on investigations.

Protection of the euro against counterfeiting

Montenegro adopted legislation designed to ensure further alignment with the *acquis* regarding cash management standards, testing cash handling machines, and the training of cash handlers. The central bank conducts **technical analysis** and continues to cooperate and exchange information on this with police administration and the High State Prosecutor's Office. Montenegro ensures cooperation with EU institutions on the protection of euro from counterfeiting, and it participates actively in the EU Pericles Programme. A **cooperation agreement** with the European Commission on coins and with the European Central Bank on bank notes is in place.

5.33 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; and (iii) 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.

Preparations in this area are at an **early stage**. There was **limited progress** in 2019 in the coordination and management of own resources, though the updated own resources action plan was adopted, partly meeting one of last year's recommendations. However, the 2019 recommendations remain fully or partly valid.

In the coming year, Montenegro should:

- further align the institutional framework and rules of administration for the own resources system and the legal framework for VAT with the EU *acquis*;
- further align the legal basis for the underlying policy areas affecting the correct application of the own resources system (taxation, customs union, financial control and statistics) and fully implement the own resources system action plan;
- ensure adequate capacity at the Directorate for Coordination and Management of EU resources and at all institutions involved in the own resources system.

On traditional own resources, a new accounting simulation exercise to distinguish collected from non-collected duties was prepared. Continued efforts will be needed to define and establish

procedures for running A&B accounts. Under the Law on public sector accounting, adopted in the reporting period, the Custom Administration will have to use the double bookkeeping rules as from 2021.

On **value added tax-based resource**, further alignment of the Law on VAT with the EU acquis is necessary, especially on the supply of goods, taxpayers and the VAT base, as well as on VAT exemptions in the public interest and the issuing of invoices.

On **gross national income-based resources**, Montenegro's GDP is calculated using the European system of national and regional accounts (ESA 2010) methodology. GNI data are available from 2010 to 2018 and are published on the website of the Statistical Office of Montenegro (Monstat). Sustained efforts are needed as regards the exhaustiveness of the national accounts and GDP/GNI calculations.

As regards **administrative infrastructure**, a comprehensive training plan or twinning exercise needs to be developed and capacity building provided for the budget directorate. This applies in particular for the Directorate for Coordination and Management of Own Resources of the EU, as well as for all institutions involved in the own resources system. The implementation of the updated own resources action plan, adopted in spring 2019, is ongoing but sustained efforts are needed for its full implementation within the deadlines set.

Annex I – Relations between the EU and Montenegro

Within the framework of the **accession negotiations**, by October 2020, all 33 screened chapters, including chapters 23 and 24 on the rule of law, had been opened, three of which, i.e. science and research, education and culture and external relations, have been provisionally closed.

Montenegro is participating in the **Stabilisation and Association Process**. Overall, Montenegro continued to broadly implement its obligations under the **Stabilisation and Association Agreement** (SAA). Regular political and economic dialogue between the EU and Montenegro has continued through the SAA structures. The Stabilisation and Association Council met in June 2019 and the Stabilisation and Association Committee in December 2019. Regular subcommittee meetings have been held throughout the period. The Stabilisation and Association Parliamentary Committee met in February 2020.

Montenegro participates in ministerial dialogue between the economic and finance ministers of the EU and the candidate countries, which aims at helping the latter 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 19 May 2020, where joint recommendations were adopted.

Visa liberalisation for citizens of Montenegro travelling to the Schengen area has been in force since December 2009. As part of the monitoring mechanism in place since visa liberalisation, the Commission has been regularly assessing the progress made by the country in implementing reforms introduced under the visa roadmap. The monitoring mechanism also includes an alert mechanism to prevent abuses, coordinated by the European Border and Coast Guard Agency. The Commission has regularly submitted its post-visa liberalisation monitoring reports to the European Parliament and the Council. A **readmission agreement** between the European Union and Montenegro has been in force since 2008.

Montenegro is currently benefitting from EU financial assistance under the Instrument for Pre-accession Assistance (IPA) with an indicative allocation of EUR 279.5 million for the period 2014-2020. This has now been programmed based on the priorities set out in the Indicative Strategy Paper. However, with the outbreak of the COVID-19 pandemic EUR 53 million has been reprogrammed in order to support the authorities' social and economic response to the crisis, with particular emphasis on protecting the most vulnerable in society. This amount includes, support providing for the delivery of emergency health supplies, a focused social and health programme, and not least a Budget Support programme. As part of the wider COVID-19 response, the EU has also made available a Macro Financial Assistance scheme of EUR 60 million in highly favourable loans in order to underpin the local economy.

Montenegro continues to benefit from support under the IPA multi-country and regional programmes. These programmes have been also, in part, repurposed to address the response to the COVID-19 crisis. Additionally, Montenegro continues to participate in four cross-border cooperation programmes with neighbouring Western Balkan countries and in transnational cooperation programmes with Member States under the European Regional Development Fund and the IPA Adriatic cross-border programme.

Montenegro continues to benefit from participation in the following EU programmes, with IPA support: Erasmus+, Creative Europe (Culture and Media strands), Employment and Social Innovation, Horizon 2020, Customs 2020, Fiscalis 2020, Competitiveness of Enterprises and

Small and Medium-Sized Enterprises Programme (COSME). Montenegro also participates with their own funds in the EU Justice Programme.

STATISTICAL DATA (as of 03.04.2020)
Montenegro
Basic data

| | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
|--|------|--------|--------|--------|--------|--------|--------|
| Population (thousand) | | 615 | 622 | 622 | 622 | 622 | 622 |
| Total area of the country (km ²) | | 13 812 | 13 812 | 13 812 | 13 812 | 13 812 | 13 812 |

National accounts

| | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
|--|------|-------|--------|--------|--------|--------|--------|
| Gross domestic product (GDP) (million euro) | | 2 689 | 3 458 | 3 655 | 3 954 | 4 299 | 4 663 |
| GDP (euro per capita) | | 4 370 | 5 560 | 5 870 | 6 350 | 6 910 | 7 490 |
| GDP per capita (in purchasing power standards (PPS)) | | 9 840 | 11 010 | 11 740 | 12 640 | 13 420 | 14 390 |
| GDP per capita (in PPS), relative to the EU average (EU-27 = 100) | | 40.1 | 41.5 | 42.8 | 44.9 | 45.9 | 47.7 |
| Real GDP growth rate: change on previous year of GDP volume (%) | | : | 1.8 | 3.4 | 2.9 | 4.7 | 5.1 |
| 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 (2010 = 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 (%) | | 9.1 | 10.0 | 9.7 | 9.0 | 8.4 | 8.2 |
| Industry (%) | | 14.1 | 13.5 | 12.8 | 12.2 | 11.3 | 12.5 |
| Construction (%) | | 7.3 | 4.2 | 4.5 | 6.7 | 6.9 | 7.0 |
| Services (%) | | 69.5 | 72.3 | 73.0 | 72.1 | 73.4 | 72.3 |
| Final consumption expenditure, as a share of GDP (%) | | 108.0 | 99.6 | 98.4 | 96.4 | 93.2 | 91.9 |
| Gross fixed capital formation, as a share of GDP (%) | | 32.9 | 19.0 | 20.1 | 24.7 | 26.9 | 29.2 |
| Changes in inventories, as a share of GDP (%) | | 1.9 | 1.2 | -0.1 | 1.4 | 3.3 | 2.7 |
| Exports of goods and services, relative to GDP (%) | | 43.0 | 40.1 | 42.1 | 40.6 | 41.1 | 42.9 |
| Imports of goods and services, relative to GDP (%) | | 85.7 | 60.0 | 60.6 | 63.1 | 64.5 | 66.7 |
| Gross fixed capital formation by the general government sector, as a percentage of GDP (%) | | : | : | : | : | : | : |

Business

| | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
|--|------|-------|------|-------|------|------|-------|
| Industrial production volume index (2015 = 100) | | 145.0 | 92.7 | 100.0 | 97.1 | 93.0 | 113.8 |
| Number of active enterprises (number) | | : | : | : | : | : | : |
| Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%) | | : | 14.5 | 14.9 | 13.1 | : | : |
| Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%) | | : | 9.1 | 7.6 | 6.1 | : | : |
| 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) | | : | 869 | 912 | 1 071 | 1 220 | : |
| Total value added (in the non-financial business economy) (EUR million) | | : | 1 308 | 1 336 | 1 530 | 1 780 | : |

| | | | | | | | |
|--|------|------|------|------|------|------|------|
| Inflation rate and house prices | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Harmonised consumer price index (HICP), change relative to the previous year (%) | | : | -0.5 | 1.4 | 0.1 | 2.8 | 2.9 |
| **Annual change in the deflated house price index (2015 = 100) | | : | : | : | : | : | : |

| | | | | | | | |
|--|-------|----------|----------|----------|----------|----------|----------|
| Balance of payments | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Balance of payments: current account total (million euro) | 1) | -1 058.7 | -429.1 | -401.7 | -642.0 | -691.5 | -792.8 |
| Balance of payments current account: trade balance (million euro) | 1) | -1 544.4 | -1 376.4 | -1 463.7 | -1 657.7 | -1 860.1 | -2 049.2 |
| Balance of payments current account: net services (million euro) | 1) | 395.0 | 690.3 | 788.9 | 769.1 | 851.8 | 936.6 |
| Balance of payments current account: net balance for primary income (million euro) | 1) | 31.3 | 45.9 | 80.0 | 34.6 | 88.3 | 54.9 |
| Balance of payments current account: net balance for secondary income (million euro) | 1) | 59.4 | 211.0 | 193.1 | 212.0 | 228.4 | 264.8 |
| Net balance for primary and secondary income: of which government transfers (million euro) | 1) 2) | 1.9 | 24.0 | 3.9 | 24.4 | 20.8 | 33.2 |
| **3 year backward moving average of the current account balance relative to GDP (%) | | : | -13.0 | -11.6 | -13.2 | -14.4 | -16.4 |
| **Five year change in share of world exports of goods and services (%) | | : | : | : | : | : | 19.8 |
| Net balance (inward - outward) of foreign direct investment (FDI) (million euro) | | 567.8 | 353.9 | 619.3 | 371.6 | 484.3 | 322.5 |
| Foreign direct investment (FDI) abroad (million euro) | | 115.0 | 20.7 | 11.1 | -167.0 | 10.1 | 92.3 |
| of which FDI of the reporting economy in the EU-27 countries (million euro) | | : | 14.8 | 9.0 | -4.6 | -4.6 | 79.6 |
| Foreign direct investment (FDI) in the reporting economy (million euro) | | 682.7 | 374.6 | 630.3 | 204.5 | 494.4 | 414.8 |
| of which FDI of the EU-27 countries in the reporting economy (million euro) | | : | 104.7 | 393.2 | -44.0 | 161.4 | 17.7 |
| **Net international investment position, relative to GDP (%) | | : | : | : | -177.0 | -169.5 | -169.4 |
| Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%) | 1) | -27.7 | -6.7 | -2.4 | -2.6 | 7.5 | 12.6 |

| | | | | | | | |
|--|------|------|------|------|------|------|-------|
| Public finance | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| ***General government deficit / surplus, relative to GDP (%) | | 6.1 | -3.1 | -7.4 | -2.8 | -5.7 | -3.9 |
| ***General government gross debt relative to GDP (%) | | 27.4 | 59.9 | 66.2 | 64.4 | 64.2 | 70.9e |
| Total government revenues, as a percentage of GDP (%) | | 49.5 | 44.8 | 41.7 | 42.6 | 41.5 | 42.2 |
| Total government expenditure, as a percentage of GDP (%) | | 43.3 | 47.7 | 50.0 | 46.2 | 46.8 | 46.2 |

| | | | | | | | |
|--|------|---------|---------|---------|---------|---------|---------|
| Financial indicators | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Gross external debt of the whole economy, relative to GDP (%) | | : | 162.9 | 168 | 162.6 | 160.6 | 164.7 |
| Gross external debt of the whole economy, relative to total exports (%) | | : | : | : | : | : | : |
| Money supply: M1 (banknotes, coins, overnight deposits, million euro) | 3) | 592.4 | : | : | : | : | : |
| Money supply: M2 (M1 plus deposits with maturity up to two years, million euro) | 4) | 1 557.0 | : | : | : | : | : |
| Money supply: M3 (M2 plus marketable instruments, million euro) | 5) | 2 728.2 | : | : | : | : | : |
| Total credit by monetary financial institutions to residents (consolidated) (million euro) | 6) | 2 224.2 | 1 933.5 | 1 959.5 | 2 080.6 | 2 294.1 | 2 528.0 |
| **Annual change in financial sector liabilities (%) | | : | : | : | : | : | : |
| **Private credit flow, consolidated, relative to GDP (%) | | : | : | : | : | : | : |
| **Private debt, consolidated, relative to GDP (%) | | : | : | : | : | : | : |

| | | | | | | | |
|--|----|-------|-------|-------|-------|-------|---------|
| Interest rates: day-to-day money rate, per annum (%) | | : | : | : | : | : | : |
| Lending interest rate (one year), per annum (%) | 7) | 9.29 | 9.22 | 8.53 | 7.45 | 6.81 | 6.36 |
| Deposit interest rate (one year), per annum (%) | 7) | 3.35 | 1.86 | 1.23 | 0.93 | 0.69 | 0.56 |
| Euro exchange rates: average of period (1 euro = ... national currency) | | 1 | 1 | 1 | 1 | 1 | 1 |
| Trade-weighted effective exchange rate index, 42 countries (2005 = 100) | | : | : | : | : | : | : |
| **3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2005 = 100) | | : | : | : | : | : | : |
| Value of reserve assets (including gold) (million euro) | | 467.9 | 544.7 | 624.0 | 752.9 | 847.2 | 1 049.8 |

| | | | | | | | |
|---|------|--------|--------|--------|--------|--------|--------|
| External trade in goods | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Value of imports: all goods, all partners (million euro) | | 2 073 | 1 784 | 1 842 | 2 062 | 2 304 | 2 554 |
| Value of exports: all goods, all partners (million euro) | | 455 | 333 | 317 | 326 | 371 | 400 |
| Trade balance: all goods, all partners (million euro) | | -1 618 | -1 451 | -1 524 | -1 736 | -1 932 | -2 153 |
| Terms of trade (export price index / import price index * 100) (number) | 8) | : | 100.6 | 100.5 | 98.0 | 105.4 | 97.5 |
| Share of exports to EU-27 countries in value of total exports (%) | | 69.9 | 34.2 | 34.1 | 36.5 | 33.4 | 43.0 |
| Share of imports from EU-27 countries in value of total imports (%) | | 48.2 | 45.1 | 40.6 | 47.3 | 46.4 | 47.1 |

| | | | | | | | |
|--|------|------|------|------|------|------|------|
| Demography | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants) | | 3.0 | 2.4b | 1.7 | 1.8 | 1.5 | 1.2 |
| Infant mortality rate deaths of children under one year of age (per thousand live births) | | 7.4 | 4.9 | 2.2 | 3.4 | 1.3 | 1.7 |
| Life expectancy at birth: male (years) | | 71.9 | 74.1 | 74.4 | 74.1 | 73.9 | 74.5 |
| Life expectancy at birth: female (years) | | 76.9 | 78.9 | 78.6 | 78.9 | 79.2 | 79.3 |

| | | | | | | | |
|--|------|------|------|------|------|------|-------|
| Labour market | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%) | | 67.0 | 67.6 | 68.5 | 69.1 | 69.3 | 70.5 |
| *Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%) | | 54.4 | 55.6 | 56.7 | 57.1 | 58.2 | 59.8 |
| Male employment rate for persons aged 20–64 (%) | | 62.8 | 61.4 | 61.9 | 63.0 | 65.2 | 66.7 |
| Female employment rate for persons aged 20–64 (%) | | 46.2 | 49.4 | 51.5 | 51.3 | 51.4 | 52.9 |
| Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%) | | 37.7 | 38.7 | 40.0 | 41.2 | 43.7 | 46.6 |
| Employment by main sectors | | | | | | | |
| Agriculture, forestry and fisheries (%) | | : | 5.7 | 7.7 | 7.7 | 7.9 | 8.0 |
| Industry (%) | | : | 11.1 | 10.8 | 9.8 | 9.5 | 9.9 |
| Construction (%) | | : | 6.5 | 6.6 | 7.7 | 7.6 | 9.0 |
| Services (%) | | : | 76.8 | 74.8 | 74.8 | 75.0 | 73.1 |
| People employed in the public sector as a share of total employment, persons aged 20–64 (%) | 9) | 39.3 | 32.8 | 32.4 | 31.2 | 32.6 | 31.7 |
| People employed in the private sector as a share of total employment, persons aged 20–64 (%) | 10) | 40.2 | 48.2 | 46.6 | 47.0 | 45.1 | 63.2b |

| | | | | | | | |
|--|--|------|------|------|------|------|------|
| Unemployment rate: proportion of the labour force that is unemployed (%) | | 19.3 | 18.0 | 17.5 | 17.8 | 16.1 | 15.2 |
| Male unemployment rate (%) | | 18.1 | 17.8 | 17.7 | 18.3 | 15.4 | 15.3 |
| Female unemployment rate (%) | | 20.9 | 18.2 | 17.3 | 17.1 | 16.9 | 15.1 |
| Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%) | | 38.3 | 35.8 | 37.6 | 35.9 | 31.7 | 29.4 |
| Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%) | | 14.2 | 14.0 | 13.6 | 13.4 | 12.4 | 11.4 |
| Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%) | | 24.9 | 32.8 | 28.7 | 22.1 | 21.7 | 21.0 |
| Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%) | | 9.3 | 9.0 | 9.4 | 11.5 | 10.7 | 13.9 |

| | | | | | | | |
|---|------|------|------|------|------|------|-------|
| Social cohesion | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Average nominal monthly wages and salaries (national currency) | | 246 | 479 | 480 | 499 | 510 | 511 |
| Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2010 = 100) | | 79.6 | 91.4 | 90.6 | 94.4 | 94.2 | 92.0 |
| GINI coefficient | | : | 36 | 36 | 36 | 37 | 35p |
| Poverty gap | | : | 32.8 | 36.6 | 35.6 | 34.0 | 35.3p |
| *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 (%) | | 12.2 | 5.1 | 5.7 | 5.5 | 5.4 | 4.6 |

| | | | | | | | |
|---|------|---------|----------|---------|---------|---------|---------|
| Standard of living | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Number of passenger cars relative to population size (number per thousand population) | | 290.3 | 280.1 | 282.8 | 296.9 | 310.5 | 331.7 |
| Number of mobile phone subscriptions relative to population size (number per thousand population) | | 1 097.9 | 1 630.3b | 1 620.1 | 1 632.5 | 1 636.7 | 1 822.8 |
| Mobile broadband penetration (per 100 inhabitants) | | : | 10.4 | 8.6 | 8.9 | 10.5 | 8.8 |
| Fixed broadband penetration (per 100 inhabitants) | | 2.6 | 16.7 | 18.1 | 18.9 | 22.1 | 24.9 |

| | | | | | | | |
|--|------|------|------|------|------|------|------|
| Infrastructure | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Density of railway network (lines in operation per thousand km²) | | 18.4 | 18.4 | 18.4 | 18.4 | 18.4 | 18.4 |
| Length of motorways (kilometres) | | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | | |
|---|------|------|-------|-------|-------|-------|-------|
| Innovation and research | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Public expenditure on education relative to GDP (%) | | : | : | : | : | : | : |
| *Gross domestic expenditure on R&D relative to GDP (%) | | 1.14 | 0.36 | 0.37 | 0.32 | 0.35 | : |
| Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%) | | : | : | : | : | : | : |
| Percentage of households who have internet access at home (%) | | : | 63.6e | 67.5e | 69.8e | 70.6e | 72.2e |

| | | | | | | | |
|---|------|-------|-------|-------|-------|-------|-------|
| Environment | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
| *Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100) | | 83.3 | 54.6 | 57.6 | : | : | : |
| Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2010 constant prices) | | 376.0 | 289.1 | 292.4 | 272.9 | 272.9 | 272.2 |

| | | | | | | | |
|--|-----|------|--------|------|------|------|------|
| Electricity generated from renewable sources relative to gross electricity consumption (%) | | 27.4 | 52.2 | 43.1 | 54.4 | 31.6 | 64.4 |
| Road share of inland freight transport (based on tonne-km) (%) | 11) | 33.2 | 100.0b | 80.8 | 58.5 | 39.0 | 55.7 |

| Energy | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
|--|------|-------|-------|-------|-------|-------|-------|
| Primary production of all energy products (thousand TOE) | | 530 | 691 | 705 | 653 | 613 | 733 |
| Primary production of crude oil (thousand TOE) | | 0 | 0 | 0 | 0 | 0 | 0 |
| Primary production of solid fuels (thousand TOE) | | 266 | 364 | 390 | 308 | 324 | 366 |
| Primary production of gas (thousand TOE) | | 0 | 0 | 0 | 0 | 0 | 0 |
| Net imports of all energy products (thousand TOE) | | 621 | 291 | 306 | 343 | 421 | 333 |
| Gross inland energy consumption (thousand TOE) | | 1 144 | 974 | 1 019 | 981 | 1 027 | 1 078 |
| Gross electricity generation (GWh) | | 2 144 | 3 173 | 3 003 | 3 141 | 2 483 | : |

| Agriculture | Note | 2007 | 2014 | 2015 | 2016 | 2017 | 2018 |
|--|------|-------|-------|-------|--------|--------|--------|
| Agricultural production volume index of goods and services (at producer prices) (2010 = 100) | | : | : | : | : | : | : |
| Utilised agricultural area (thousand hectares) | | 222.2 | 230.3 | 231.4 | 255.8p | 256.4p | 256.8p |
| Livestock numbers: live bovine animals (thousand heads, end of period) | 12) | 109.3 | 93.6 | 92.4 | 89.2p | 86.6p | 83.3p |
| Livestock numbers: live swine (thousand heads, end of period) | 12) | 10.4 | 22.0 | 25.0 | 55.8p | 25.0p | 23.6p |
| Livestock numbers: live sheep and live goats (thousand heads, end of period) | 12) | : | 237.4 | 224.3 | 223.4p | 218.6p | 216.0p |
| Raw milk available on farms (thousand tonnes) | 13) | 172.6 | 191.8 | 183.1 | 180.6p | 181.5p | 181.5p |
| Harvested crop production: cereals (including rice) (thousand tonnes) | | 2.4 | 7.9 | 7.0 | 7.6p | 7.8p | 7.9p |
| Harvested crop production: sugar beet (thousand tonnes) | | 0 | 0 | 0 | 0 | 0 | 0 |
| Harvested crop production: vegetables (thousand tonnes) | 14) | 31.8 | 44.0 | 51.1 | 42.5p | 41.9p | 43.1p |

Source: Eurostat and the statistical authorities in Montenegro

: = not available

b = break in series

e = estimate

p = provisional

* = Europe 2020 indicator

** = Macroeconomic Imbalance Procedure (MIP) indicator

*** = The government deficit and debt data of enlargement countries are published on an "as is" basis and without any assurance as regards their quality and adherence to ESA rules.

Footnotes

- 1) 2007: based on balance of payments manual edition 5 (BPM5).
- 2) Secondary income only.
- 3) National definition of M0, comprised of bank deposits with the CBM (settlement account and reserve requirement account) and the estimated amount of cash in circulation.
- 4) National definition of M11, comprised of M0 plus demand deposits by the non-banking sector held with banks and the CBM, in EUR and other currencies, plus the Central Government's demand deposits in EUR and other currencies.

- 5) National definition of M21, comprised of M11 plus the non-banking sector's time deposits with banks, in EUR and other currencies, plus the Central Government's time deposits in EUR and other currencies.
- 6) Loans include total banks' loans granted to non-MFI residents and other claims (factoring and forfeiting, claims on outstanding bills of acceptance, guarantees and bills of exchange).
- 7) Weighted average effective interest rate, outstanding amounts.
- 8) Calculated from indices with the previous year as the reference year (= 100).
- 9) Data of NGOs are excluded. Number of employees in the public sector as a share of the total number of persons employed.
- 10) Comprises data of private enterprises, entrepreneurs and private households. 2007 and 2014-2017: number of employees in the private sector as a share of the total number of persons employed. 2018: number of persons employed in the private sector as a share of the total number of persons employed.
- 11) 2007: total freight traffic (national territory and international transport).
- 12) Including livestock held by enterprises, cooperatives and households.
- 13) In million litres. Net quantity, from enterprises, cooperatives and households.
- 14) 2007, 2014 and 2015: including the production of kitchen gardens.