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## **MONTENEGRO 2009 PROGRESS REPORT**

*accompanying the*

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

**Enlargement Strategy and Main Challenges 2009-2010**

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## COMMISSION STAFF WORKING DOCUMENT

### Montenegro 2009 Progress Report

#### 1. INTRODUCTION

##### 1.1. Preface

Since March 2002 the Commission has reported regularly to the Council and the Parliament on progress made by the countries of the Western Balkans region.

The Commission issued progress reports focusing exclusively on Montenegro since 2006. This report:

- briefly describes relations between Montenegro and the Union;
- analyses the political situation in Montenegro in terms of democracy, the rule of law, human rights, protection of minorities and regional issues;
- analyses the economic situation in Montenegro;
- reviews Montenegro's capacity to implement European standards, i.e. to gradually approximate its legislation and policies to the *acquis*, in line with a Stabilisation and Association Agreement and the European Partnership priorities.

This report covers the period from early October 2008 to mid-September 2009. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented. As a rule, legislation or measures which are being prepared or awaiting parliamentary approval have not been taken into account. This approach ensures equal treatment across all reports and permits an objective assessment.

The report is based on information gathered and analysed by the Commission. Many additional sources have been used, including contributions from the government of Montenegro and from the EU Member States, European Parliament reports<sup>1</sup> and information from various international and non-governmental organisations.

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

##### 1.2. Context

Montenegro is a potential candidate for EU membership. The Stabilisation and Association Agreement between Montenegro and the EU was signed in October 2007. An Interim Agreement was signed on the same date and entered into force in January 2008. The

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<sup>1</sup> The rapporteur for Montenegro until September was Mr. Marcello Vernola. Since September, the new rapporteur is Mr. Charles Tannock.

<sup>2</sup> Enlargement Strategy and Main Challenges 2009-2010 (COM(2009) 533 of 14.10.2009).

Commission delegation in Montenegro has been operational since November 2007. In December 2008 Montenegro applied for membership of the European Union. In April 2009 the Council decided to implement the procedure laid down in Article 49 of the Treaty on European Union. Accordingly, the Commission was requested to submit to the Council its Opinion on the application by Montenegro. The Commission started work on its Opinion by sending Montenegro a comprehensive list of questions relating to the Copenhagen criteria and the conditions set for the stabilisation and association process. This report in no way prejudices the analysis to be made by the Commission in its Opinion on Montenegro's application for EU membership.

### 1.3. Relations between the EU and Montenegro

Montenegro is participating in the **Stabilisation and Association Process**. Implementation of the **Interim Agreement** (IA) has continued. Ratification of the **Stabilisation and Association Agreement** (SAA) progressed. By 1 September 2009 22 EU Member States had confirmed ratification of the SAA. Montenegro is continuing to implement its commitments under the SAA and to prepare for full implementation of the SAA once it is ratified. This is a key priority of the European Partnership. The bodies provided for by the Interim Agreement operated smoothly.

The EU is providing guidance to the Montenegrin authorities on reform priorities as part of the **European Partnership**.<sup>3</sup> Implementation of the European Partnership by Montenegro is progressing. Dialogue on European integration issues continued in the enhanced permanent dialogue and in the bodies provided for by the Interim Agreement. In March 2009 a **political dialogue** was held between the EU (troika) and Montenegro.

The visa facilitation and readmission agreements between Montenegro and the European Community continued to be implemented. In the framework of the **visa liberalisation** dialogue, Montenegro has made important progress in the areas of justice, freedom and security and has fulfilled the majority of the roadmap benchmarks. Therefore, the Commission proposed in July 2009 lifting the visa obligation for Montenegrin citizens. This proposal is subject to Montenegro meeting the outstanding criteria before the Council of the EU takes its decision, after consultation of the European Parliament.

As a potential candidate for EU membership, Montenegro aligned itself with 121 CFSP declarations from a total of 128 relevant declarations adopted by the EU during the reporting period.

Since 2007 Montenegro has been receiving pre-accession **financial assistance** from the Instrument for Pre-Accession Assistance (IPA), which is being implemented by the European Commission delegation in Podgorica since September 2008. Montenegro has continued to prepare for decentralised management of EC aid.

In 2009 a total of €33.3 million was allocated to Montenegro. The main focus areas are rule of law, including justice and police reform, labour and safety at work, environmental protection railways, State financial management and audit, and alignment to internal market legislation. EU financial support has been provided to **civil society** development under the Civil Society Facility. Under the national IPA programme for 2009, €2.2 million have been earmarked for

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<sup>3</sup> Council Decision 2007/49/EC.

projects aiming to enhance civil society organisations contribution to the social, economic and political development of Montenegro, in areas such as social welfare, special education, preventive health, inter-cultural dialogue, transparency and accountability of the public administration, judiciary and parliament.

In response to the economic crisis, an IPA **crisis package** has been created, comprising €200 million for the Western Balkan region which are expected to leverage investments of at least €1 billion, co-financed by the partner financial institutions. The country will benefit from a share of multi-beneficiary funds for competitiveness, SMEs, energy efficiency and banking sector regulation. In addition, the country benefits from Montenegro-earmarked multi-beneficiary funds to accelerate the infrastructure investments. €5 million were committed to the Infrastructure Project Facility for a project on water infrastructure in mountain municipalities.

Provisional application of Protocol 8 of the SAA started in November 2007. As a result, Montenegro can join **Community programmes** which are open to Western Balkan countries. Montenegro participates in the 7th Framework Programme for research and technological development and in the specific programme on entrepreneurship and innovation, which is part of the Competitiveness and Innovation Framework Programme (2007-2013). Montenegro is at the final stage of its preparations to participate in the European Community's Culture Programme.

## **2. POLITICAL CRITERIA**

This section examines the progress made by Montenegro towards meeting the Copenhagen political criteria, which require stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. It also monitors regional cooperation, good neighbourly relations with enlargement countries and Member States and compliance with international obligations, such as cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY).

### **2.1. Democracy and the rule of law**

#### *Constitution*

Establishment of the legal and institutional set-up required for an independent country, which is a key European Partnership priority, is almost complete. One of the last pieces of legislation required, the Law on State Property which regulates ownership and transfer of State and municipal property, was adopted. The deadline for adoption of legislation provided for by the Law on Implementation of the Constitution was further extended to April 2010.

#### *Parliament*

In January 2009 parliament adopted a decision to call early elections, which were held in March 2009. According to the international election observation mission led by the OSCE/ODIHR, the elections met almost all international and European commitments. However, remaining shortcomings and challenges still need to be addressed. The electoral framework has to be harmonised with the Constitution, including on minority representation. Further work is also needed on ensuring full separation between State and party structures in the electoral administration and ensuring transparent allocation of parliament seats. A new

Law on State Property provides a framework ensuring clear separation of State and party premises, including during elections, but has yet to be implemented.

Voter turn-out in the parliamentary elections was less than in the previous elections but remained high at 66%. The coalition for European Montenegro led by outgoing Prime Minister Milo Djukanovic increased its majority and won 48 out of 81 seats.

There has been some progress in the work and functioning of parliament. Work on strengthening political consensus, particularly on European integration issues, has continued. The National Council for EU Integration continued to contribute to EU integration. The government reported on progress with EU integration at every session of the Committee for International Relations and European Integration. This further raised the level of involvement of this committee in the integration process. As regards control mechanisms, this committee called ministers to hearings on several occasions.

Parliament adopted 124 laws, which is a 30% increase compared to 2007. This intense activity is welcome as Montenegro continues to complete its legal framework following independence and taking into account alignment with the *acquis communautaire*. However, parliament's capacity to scrutinise legislation and monitor its implementation needs to be enhanced.

In December 2008 a new set of rules on organisation of the parliamentary administration were adopted. The rulebook provides for establishment of six more 'bureaus' within the Parliament's Administration Service, including a Bureau for EU Integration. One of its tasks is to give an independent assessment of alignment of draft legislation with the *acquis*. The new rules provide for increasing the parliamentary administration's human resources. A part of these resources has already been made available. Further efforts have been made to provide for staff training.

Steps have been taken to improve use of the working bodies and observance of the rules of procedure. Efforts have been made to bring parliament closer to citizens, for example by means of visits and brochures. Parliament continued its work on oversight of defence and security bodies, *inter alia* by organising a hearing of the director of the police in December 2008. This practice needs to continue and expand. Civilian and democratic oversight of defence and security bodies is a key priority of the European Partnership.

The Committee for International Relations and EU Integration has upgraded its contacts with the European Parliament. It holds the chairmanship of the conference of the parliamentary committees for EU integration of Western Balkan countries for 2008-2009. In this context, Montenegro successfully hosted a well-attended regional parliamentary conference in Cetinje in March 2009.

Parliament's work and operation still need to be consolidated in several areas. Planning needs to be improved. Inspection and control mechanisms are underused. The supervisory role of parliament generally remains weak.

At present administrative and other resources required for parliament's work, including expert support, remain insufficient. Staff and expert support for committees are rudimentary.

The temporary solution for TV coverage of parliamentary debates, following the disagreement between the government and opposition on this topic, expired in March 2009.



No solution has been proposed for the new parliament's mandate. Until then public TV committed to cover parliamentary debates in line with an earlier arrangement with political parties.

Neither the newly established Bureau for EU integration nor the Committee for International Relations and EU Integration yet have sufficient capacity to scrutinise independently alignment of draft legislation with the EU *acquis*.

Further progress remains necessary on mature and consensual functioning of parliament. From October 2008 to March 2009 two opposition parties boycotted parliamentary work due to the government's recognition of the independence of Kosovo<sup>4</sup>. This boycott hindered contribution of a diversity of views for development of new legislation.

*Overall*, there have been some improvements in the functioning of parliament. The parliamentary parties' overall commitment to working on the basis of consensus, in particular on EU integration, remains a solid basis for further democratic development. The National Council for EU Integration has yet to achieve its full potential. Further efforts are needed to enhance parliament's efficiency as a legislative and oversight body. Aligning electoral legislation with the Constitution remains a priority.

### *Government*

Following the March 2009 parliamentary elections, a new government headed by the outgoing Prime Minister was elected by parliament in June 2009. It has three Deputy Prime Ministers (DPMs), amongst them a new DPM for the political system, four new ministries (Ministry for EU integration, Ministry for Environment and Urban Planning, Ministry of Labour and Social Welfare and Ministry of Health).

Building on the 2009 work programme of the previous government, the new government programme gives priority to European and Euro-Atlantic integration, dealing with the consequences of the economic crisis and ensuring sustainable growth in Montenegro, including raising the standard of living, balanced regional development and key infrastructure projects. The fight against organised crime and corruption along with judicial reform continue to be government priorities.

The government maintained a strong pace for adoption of new legislation. Stakeholders, including civil society and international organisations, were continuously involved in developing new legislation. However, new legislation has not always been based on a thorough needs assessment and on identification of priorities and of means for full implementation.

The management structures of most government bodies, including ministries, have not substantially changed and in many cases remain over-centralised. Further strengthening of the middle-management level would make decision-making more effective. The human resources of the Secretariat for EU Integration (SEI) and line ministries have not been substantially improved, due to government cost-cutting measures in response to the economic crisis. Progress remains necessary on monitoring implementation of policies and laws and receiving feedback.

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<sup>4</sup> Under UNSCR 1244/1999.

The Deputy Prime Minister and the SEI consistently raised the profile of the EU integration process and related requirements as Montenegro moved forward with its EU membership application. The SEI made some progress on issues related to translation of EU texts and efforts have been made to harmonise vocabulary used by State bodies on EU issues. A plan was adopted to improve government cross-checking of draft legislation with the EU *acquis* by means of an article-by-article check by the SEI. In June 2009 the SEI was converted into a fully fledged Ministry for European Integration and the post of the Deputy Prime Minister was converted to Minister for European Integration to head the new ministry. The new set-up is expected to streamline coordination on European integration issues.

Awareness of EU integration issues within line ministries was further raised by organising round tables on EU affairs for civil servants. The EU offices in line ministries have become more effective as they have grown more familiar with the demands of their role. In general, the standard of contributions by the Montenegrin authorities to regular meetings with the European Commission under the stabilisation and association process has been maintained.

As regards local government, the 2009 action plan on local government reform was adopted in March 2009. A joint central/local government commission reviewed draft legislation on local governance. However, implementation of reforms remains limited. Implementation of the 2008 local government action plan, under the supervision of a joint central/local government commission, has not advanced very far. No report on implementation of the 2008 action plan has been adopted.

*Overall*, the government has continued to put together the structures needed as a result of independence. The framework for coordination of European integration activities has been made more effective. Human resources in ministries and relevant agencies to address European integration issues need to be further strengthened. Local self-government reform remains a key challenge.

#### *Public administration*

Some progress has been made on upgrading the country's administrative capacity and on reforming the public administration, a key European Partnership priority.

A Law on State Property adopted in January 2009 defined State and municipal property and clarified the ownership of premises used by State bodies. A Law on Conflicts of Interest of Public Servants adopted in December 2008, provided a detailed definition of public officials and increased transparency requirements in the public administration. A commission to oversee compliance with the new Law was appointed in July 2009. A Law providing for internal audit units in government bodies was adopted in November 2008, but implementation has not yet started. These legal provisions strengthen the overall framework for transparency and accountability. Establishment of the central human resources register by the human resources management authority (HRMA) is almost complete. The HRMA continued to conduct training programmes for civil servants. Recruitment procedures to the public administration are generally based on public vacancy announcements, but the concept of merit-based recruitment and promotion of civil servants is not provided for in the legislation and is not implemented in practice. Several activities have been organised to raise awareness of job opportunities in the public sector. Overall, the HRMA lacks the administrative capacity to promote and monitor implementation of the Civil Service Law.

The Ombudsman's Office dealt with 541 complaints in 2008, around 80 % of which were resolved. As in previous years, the majority concerned the work of courts, in particular the long duration of court proceedings, followed by the public administration, the prosecution service and municipalities. Most recommendations made by the Ombudsman's Office were followed up. A Deputy Ombudsman for children's rights has been appointed in July 2009. However, the Law on the Ombudsman has still to be fully aligned with the Constitution. Further enhancement of the office's capacities is required, as well as an improvement to its premises' accessibility.

Implementation of the national training strategy for municipalities has begun. However, implementation of the 2008 local government action plan has been limited, while progress on building up local authorities' administrative and management capacity remains slow. No progress has been made on municipalities' capacity for financial management, including budgeting, public procurement and allocation of grants. Lack of computerisation in many municipalities hinders efficiency and increases the risk of corruption.

*Overall*, some progress has been made on strengthening the legislative framework for the public administration. There was some progress on human resources management but, due to the government's cost-cutting measures, there has been no overall strengthening of human resources. Significant efforts are required to establish a professional, accountable, transparent and merit-based civil service, free of political interference. Further reform is required in the fields of financial control, public procurement and licensing procedures. To this effect, internal control mechanisms need to be established throughout the public administration. Efforts need to continue to prepare fully for implementation of the SAA by upgrading administrative capacity in the areas covered by the agreement.

### *Judicial system*

Montenegro has made progress in the area of judicial reform, a key European Partnership priority. The action plan to implement the 2007–2012 judicial reform strategy has been further followed up. The second report on implementation of the action plan was adopted in March 2009.

A Law on the Constitutional Court has been adopted with the objective of clarifying the precise scope of the court's mandate. The new Criminal Procedure Code (CPC) intended to increase the overall efficiency of the prosecution has been adopted. In particular, it extends the powers of the public prosecution office, makes prosecution more efficient by placing the pre-trial procedure in the hands of the public prosecutor, introduces a reversed burden of proof for confiscation of criminal assets and extends use of special investigative measures to corruption crimes. Preparatory work on the application of the CPC has started, including specialised training for prosecutors, judges and the police.

Progress has been made on implementation of key legislation intended to increase the professionalism and independence of judges and prosecutors. The Prosecutorial Council was elected, adopted its rules of procedure and became operational. The remaining vacancy in the Judicial Council, nominated by the parliamentary opposition, has been filled. Both the Judicial and the Prosecutorial Councils have begun to establish a track record of decisions on selection of judges, deputy prosecutors and prosecutors and on disciplinary proceedings. During the reporting period, nine judges have been suspended and one has been dismissed by the Judicial Council. Progress has also been made in reducing the backlog of cases.

The overall professional capacity of judges and prosecutors has been strengthened by training, including on anti-corruption. Some training on carrying out investigations has been provided to prosecutors. Special departments in the high courts for combating organised crime, corruption, war crimes and terrorism established in September 2008, started dealing with cases. The capacity of the special prosecutor's office for fighting organised crime has been bolstered by additional deputy prosecutors, training and equipment.

Investigation and court proceedings in Montenegro's limited number of domestic *war crimes*' cases have made headway. An out-of-court settlement has been made regarding the survivors and families of the victims of deportations of Bosnian civilians in 1992 and compensations have been awarded.

However, there have been no further developments on supplementing the Constitution with implementing provisions in line with European standards covering the judiciary and the prosecution service, where there still is political interference. Serious concerns regarding the independence of judges and prosecutors persist. Scope for political influence exerted on the prosecution exists through the appointment of the Prosecutorial Council by parliament and the parliament's powers to appoint and dismiss the State prosecutors. The unclear division of responsibility for supervision of the courts between the Ministry of Justice and the Judicial Council, the participation of the Minister of Justice as a member of the Judicial Council and the election and dismissal of the president of the Judicial Council by parliament, constitute further causes for concern regarding the independence of the judiciary.

The efficiency of the judicial system needs to be further enhanced. Judicial enforcement procedures remain inefficient while lengthy court procedures remain a cause for concern. The misdemeanour reform strategy needs to be implemented in a way which will avoid creating further backlogs. The new Law on the Right to Trial within Reasonable Time, granting compensation to citizens whose trial exceeds a set time-frame, has entered into force, but a track record has yet to be established. The reliability of court data needs to be improved. The computerised case management system has yet to be introduced in all courts. Random allocation of cases in courts has not yet been fully implemented and computerised.

Training programmes to prepare the prosecution service for its role in the pre-trial procedure under the new Criminal Procedure Code must be further pursued. Modern techniques for financial investigations are still insufficiently used. The special prosecutor's office needs further strengthening in the form of expertise, qualified support staff and equipment. The capacity of the Ministry of Justice for judicial cooperation has been somewhat strengthened. However, its internal organisation and procedures, skilled human resources and IT systems need to be further improved. The ongoing reform of the juvenile justice system has yet to yield results.

*Overall*, Montenegro is moderately advanced in the area of judicial reform. There has been some progress through the enhancement of the legal framework and the implementation of legislation. Further efforts are required for the consolidation of the independence, accountability, integrity and efficiency of the judicial system.

#### *Anti-corruption policy*

There has been progress in the fight against corruption, which is a key European Partnership priority.

The strategic framework for fighting corruption has been fine-tuned to place greater emphasis on monitoring implementation of anti-corruption measures from the action plan against organised crime and corruption. The national commission for monitoring implementation of the action plan produced its fourth and fifth report.

The legal framework for the fight against corruption has been strengthened with the adoption of the new Criminal Procedure Code in July 2009, the Law on Prevention of Conflicts of Interest in Performing Public Functions in December 2008, the Law on Internal Financial Control in November 2008 and the Law on Financing the Election Campaigns for the President, Mayors and Presidents of Municipalities of Montenegro in January 2009.

Progress has been made on further enhancing preventive and investigative anti-corruption bodies. The resources of the Directorate for Anti-Corruption Initiatives (DACI) have been strengthened and its co-operation with the police has been enhanced. Furthermore, it intensified its training activities for administrative bodies and the public, as well as the realisation of reports and researches related to corruption. The human resources and equipment of the special prosecutor's office for fighting organised crime, corruption, terrorism and war crimes have been built up. The specialised high court units for organised crime and corruption have also been reinforced. Anti-corruption training is available to the police, border police, customs officers, prosecutors and judges.

Internal control departments within the Police Directorate are starting to build a record of action against corruption. During the reporting period, twelve corruption charges were brought against thirteen police officers as a result of internal investigations. In the judiciary, criminal charges for corruption and abuse of office were brought against three judges.

DACI, NGOs and the media conducted activities to raise awareness of corruption. Two NGOs actively participated in the work of the national commission for fighting corruption and organised crime and in screening related draft legislation

However, corruption continues to be a cause of concern in Montenegro. The national action plan against organised crime and corruption needs to be compiled on the basis of risk assessments and to include priorities for action. The country's national legislation is not yet fully aligned with the international anti-corruption instruments ratified by Montenegro. Some Group of States against Corruption (GRECO) recommendations have yet to be fully implemented. Anti-corruption action plans on the level of local administration have been adopted by eleven out of 21 municipalities but implementation has begun only in two.

Montenegro still lacks strong and independent supervisory authorities to evaluate asset declarations and financing of political parties and to monitor and exercise control over expenditure in the public sector, notably on public procurement, spatial planning and privatisation. A supervising authority to monitor and ensure compliance with the Law on the Financing of Political Parties and the Law on the Financing of Election Campaigns for the President, Mayors and Presidents of Municipalities of Montenegro is yet to be established. As a result, political parties' compliance with the law is only supervised in relation to allocations provided by the state budget. Private donations remain uncontrolled, due to the absence of a supervising authority. The new Law on the Prevention of Conflict of Interests in Performing Public Functions, adopted in December 2008 includes some improvements but also has some serious shortcomings and loopholes. Most importantly, it provides for a significant exemption for parliamentarians, who are allowed to hold executive powers in public companies or executive agencies. The appointment of the supervising authority by the parliament raises a

cause for concern. Further, the sanctioning powers of the Commission are limited in scope, as well as legally problematic especially with regard to politicians. The new Commission has been appointed in July 2009. Its Rules of Procedure are yet to be adopted.

The administrative bodies for detecting and investigating corruption still lack sufficient staff with appropriate skills. This applies to the Police Directorate's internal control unit and unit for combating organised crime and corruption and, to a lesser extent, to the prosecution service.

A track record of corruption cases in courts is being built but the number of final convictions remains low. The investigative capacity of law enforcement bodies remains weak due to shortfalls in expertise, specialised equipment and working conditions. There is still a significant lack of expertise in modern financial investigation. In 2008 and the first quarter of 2009, the Police Directorate for organised crime and corruption carried out financial investigations in five cases which had elements of corruption. Inter-agency cooperation needs to be further enhanced, as it is still based primarily on bilateral agreements and informal arrangements. A national coordination unit, intended to bring together the expertise and databases of the police, customs authorities, tax authorities and the administration for prevention of money-laundering and financing of terrorism is yet to be created.

*Overall*, good progress has been made on strengthening the strategic, legislative and administrative framework. However, corruption remains prevalent in many areas and continues to be a particularly serious problem. The commitment of the authorities has not yet been backed by consistent implementation of anti-corruption legislation. While there is a positive trend, investigation capacities and co-ordination of law-enforcement agencies remain weak. There is insufficient supervision in the areas of financing of political parties and conflict of interests. A solid track record of convictions in corruption cases remains to be established, particularly in cases of high-level corruption.

## **2.2. Human rights and the protection of minorities**

### *Observance of international human rights law*

As regards **ratification of human rights instruments**, some progress has been made. In March 2009 Montenegro ratified the Optional Protocol to the UN Convention against Torture (OPCAT) Montenegro applied to join the UN Human Rights Council in February 2009. In June 2009, it signed the Council of Europe Conventions on Exercise of Children's rights, on Protection of children against sexual exploitation and sexual abuse and on the Adoption of children. It has not yet ratified the Council of Europe Convention on the avoidance of statelessness in relation to State succession and the UN Convention on the rights of persons with disabilities and its optional protocol.

In January 2009 Montenegro appointed a government agent before the **European Court of Human Rights**.

Regarding **promotion and enforcement of human rights**, direct implementation of international human rights standards remains restricted to cases of conflicts with domestic legislation. The Constitution contains no explicit provision that ratified international human rights treaties should be applied in compliance with the practice of international bodies in charge of interpreting them. The application of the European Convention on Human Rights (ECHR) with regard to the period before independence has not yet been fully clarified.

The right to appeal on the basis of the European Convention on Human Rights against violations which occurred prior to Montenegro's independence has not yet been clarified.

During the reporting period, the European Court of Human Rights (ECtHR) issued one judgement finding that Montenegro had violated the ECHR. A total of 249 new applications were made to the ECtHR since October 2008. As of September 2009, there were 404 cases pending before the Court.

*Overall*, Montenegro has made some progress on improving observance of international human rights law. Further efforts to align legislation with international human rights standards and to improve judicial enforcement are needed.

### *Civil and political rights*

Some progress has been made on **prevention of torture and ill-treatment and the fight against impunity**. The government adopted an action plan for the prevention of torture, which aims to improve the conditions of detainees, prisoners or patients in neuro-psychiatric institutions.

Allegations of torture and ill-treatment during arrest and detention continue to be reported. In 2008, the Ombudsman received a higher number of complaints about police ill-treatment than in the previous year. In six cases, the Ombudsman recommended disciplinary proceedings or criminal investigations against police officers. Civil society organisations reported an increase in alleged police assaults in 2008. Overall, torture and ill-treatment remain a sporadic problem in Montenegro.

The disciplinary procedure for abuse of office and exceeding official powers defined in the Law on Civil Servants and Public Employees is not fully observed. A need remains to strengthen internal control mechanisms and take steps to accelerate judicial intervention. International standards and judicial practice for combating torture need to be fully applied.

As regards **access to justice**, the long duration of court procedures remains a cause for concern. The right of citizens to a trial within reasonable time is protected by law, yet due to deficiencies in the procedure, most claims have been rejected. Free legal aid remains limited. The Law on Free Legal Aid has not yet been adopted. The overall backlog of court cases has been reduced, but further efforts are necessary.

Some progress has been made regarding the **prison system**. New facilities for specific categories of detainees have been opened. Video monitoring of detention areas has been introduced in some police units. Some progress has been made on monitoring of detention facilities by external bodies.

However, most detention facilities in Montenegro are not yet differentiated and specialised for specific categories of detainees. Detention facilities lack sufficient capacity for all detainees. Conditions in some police detention facilities are unsatisfactory. Staff in detention facilities lacks training. Reform of the probation/parole system remains pending. Overall, conditions of detention facilities are not yet in line with international standards and as recommended by the Ombudsman.

Some progress can be reported on **freedom of expression**. A lengthy trial of a high-profile murder case of a daily newspaper owner has been concluded and a conviction has been made. Some progress was also achieved on investigation of violence against journalists. However,

there is still cause for concern. New incidents of mistreatment have been reported. Defamation cases against journalists continue to be used as a means of exerting pressure against independent journalism and courts impose disproportionate fines in such cases. Intimidating statements by state officials on the role of media and NGOs are a cause of apprehension. The Law on Free Access to Public Information is still being implemented with uneven results.

There were set-backs in the implementation of the Law on Electronic Communications due to the delay in establishing the Agency for Electronic Communications and to a disagreement between the Agency for Electronic Communications and the Broadcasting Agency on powers regarding frequency allocation. Delays in frequency allocation procedures raise concerns about political interference. The independence of the members of the governing council of the Agency for Electronic Communications remains questionable, as they are appointed by the government. Implementation of the Law on Electronic Communications remains unsatisfactory. Media transparency remains insufficient.

Regarding **freedom of assembly and association**, there are no restrictions to report.

Some progress has been made on the role of **civil society organisations**. Several NGOs continue to have a high public and political profile. A strategy for cooperation between the government and NGOs was adopted in January 2009. Civil society organisations continue to be consulted by the government and are represented in the National Council for European Integration. However, the mechanism by which civil society members are elected to the National Council for European Integration has to be clarified.

The number of registered NGOs has increased to 4,600, but only a small minority of them are active. Civil society groups do not yet participate in the Radio/Television Council of Montenegro.

As regards **freedom of religion**, relations between the major religious groups (Orthodox, Islamic and Roman Catholic) remain satisfactory. However, the conflict between the Serbian and Montenegrin Orthodox churches in Montenegro over official recognition and property ownership continues.

*Overall*, there has been some progress in the area of civil and political rights. However, further efforts are necessary on prevention of ill-treatment, freedom of expression and access to justice. The capacity and differentiation of detention facilities need to be enhanced.

#### *Economic and social rights*

Limited progress has been made on protection of **women's rights**, including the issue of domestic violence and protection of victims. A government campaign on violence against women was launched in 2008. The speed of processing cases in courts and the attitude within the police teams specialising in family violence have improved somewhat.

The number of cases of domestic violence reported to the police is still small. However, domestic violence remains widespread. The Law on Protection from Violence in the Family has still not been adopted. There is a lack of financial support for organisations providing services to victims or for the victims themselves. The protection given to victims of violence remains unsatisfactory and municipal social care centres still need to be improved. Sexual harassment, as defined in the Labour Law, needs to be duly prosecuted.



In the field of gender equality, some progress has been achieved. Implementation of the action plan for gender equality (2008-2012) has started. The Office for Gender Equality has established a forum for dialogue with civil society and a university pilot project on gender studies. Government ministries and bodies have started reviewing documents from a gender equality angle. Women remain well represented at working and middle management levels in the public administration. A law which will prohibit discrimination based on gender is pending.

Women remain underrepresented in decision-making processes and in leading positions both in the public administration and in the private sector. Only 6% of top positions in the 2006-2009 government mandate were occupied by women. In the new government mandate there is one woman in a ministerial position. In parliamentary elections in March 2009 only 14% of candidates were women, while in the new parliament only 11% of members of parliament are women. More than 80% of the illiterate population are women. Overall, the Law on Gender Equality has not yet resulted in mainstreaming gender equality policy in parliament, ministries and across the public administration. Efforts in this field must be intensified.

In practice, limited progress has been made on women's rights. Women remain underrepresented in top public and private sector positions. It is necessary to continue improving protection against and raising awareness of gender-based discrimination, in particular on the labour market.

Limited progress has been achieved concerning **children's rights**. A Deputy Ombudsman for children's rights has been appointed in July 2009. The council on child rights has begun to meet on an ad hoc basis. A local day-care centre for children with disabilities was opened and three local centres are being constructed. Efforts were made to improve school enrolment of Roma children and avoid their marginalisation.

However, further reforms remain necessary. There is still a gap between the goals of the national strategy on development of child and social protection and implementation in practice. The Law on Child and Social Protection has not yet been brought into line with the UN Convention on the Rights of the Child and with international practice. The council on child rights has no systematic work programme. Capacity to monitor children's rights remains weak. Child protection from violence is inadequate, as most cases of violence against and between children remain unreported. Capacity for data collection in the social and judicial sectors needs to be further strengthened. Development of alternative, community-based care services needs to be accelerated.

Concerning **socially vulnerable persons and/or persons with disabilities**, some progress has been achieved. Laws on travel concessions for people with disabilities and on movement of blind persons with the assistance of guide dogs were adopted. Construction of a centre for professional rehabilitation and integration of people with disabilities and of several centres for disabled children has begun. However, the Law on Professional Rehabilitation and Employment of Disabled People, which places an obligation on employers to adapt their premises to the needs of employees with disabilities, is not sufficiently enforced.

Regarding **labour rights and trade unions**, the Law on Strikes was brought into line with the Constitution, expanding the right to strike to public administration employees.

In the area of **anti-discrimination policies**, adoption of the Law on Prohibition of Discrimination is still pending. Lesbian, gay, bisexual and transgender (LGBT) people are marginalised and discriminated against in Montenegrin society.

Regarding **property rights**, a Law on Private Property Relations was adopted in March 2009. It provides for equal treatment of foreign citizens with Montenegrin citizens on acquiring movable and immovable property. A Law on State Property, which clearly defines the property belonging to the State and municipalities, was adopted. However, property restitution has been slow. The Ombudsman's Office reported fewer complaints regarding restitution of property in 2008, than in previous years.

*Overall*, there has been limited progress in the area of economic and social rights. Major legislation such as the Law against Discrimination and the Law on Protection from violence in the Family is yet to be adopted. Domestic violence remains a cause for concern. The protection of women against all forms of violence needs to be considerably strengthened. Implementation of strategies and legislation addressing vulnerable groups needs to be accelerated.

#### *Minority rights, cultural rights and protection of minorities*

Overall, minority rights are respected. There is a broad and adequate legal framework safeguarding them, including **cultural rights**, on the basis of the constitution. Yet, the Law on Minority Rights and Freedoms has not yet been harmonised with the Constitution regarding minority representation. While preserving the existing tolerance and mutual respect between Montenegro's varied ethnic groups, there is a need to adopt legislation in order to address outstanding issues in this area. Also the constitutional provision on 'proportionate representation' of national minorities in public services needs to be clarified.

Montenegro needs to resolve the status of around 16,200 **displaced persons** from Kosovo. Their re-registration has been announced by the authorities. Displaced persons from Kosovo face great difficulties in gaining access to employment, due to restrictions imposed by the Law on Employment and Work of Foreigners. Construction of accommodation for displaced Roma from Kosovo was initiated in June 2008. Overall, displaced persons from Kosovo live in very difficult economic and social conditions partly due to their unresolved legal status. Another particular cause for concern is the situation of the Konnik refugee camp close to Podgorica.

A re-registration of displaced persons from Croatia and Bosnia and Herzegovina which has been recently completed, has found 5,648 of them residing in Montenegro. A legal framework to address their status has been put into place. Displaced persons can either be registered as refugees if they fulfil the requirements of the Law on Asylum, and subsequently be able to apply for Montenegrin citizenship, or as foreigners with permanent residence under the Law on Foreigners. Montenegro must ensure the effective implementation of these laws. Between March 2008 and September 2009, a total of 270 displaced persons acquired Montenegrin citizenship by naturalisation. The European Partnership priorities regarding abolition of all discriminatory provisions in key fields, affecting refugees and displaced persons and creating the conditions for integration of those who choose to remain in Montenegro, have not yet been fulfilled.

The situation of the **Roma, Ashkali and Egyptian (RAE)** communities remains a cause for concern. A census conducted by the national statistical office in October 2008, has found a

total of more than 10,000 RAE in Montenegro. However, this figure is disputed by Roma representatives. The government is cooperating with international organisations and civil society groups on projects to improve the situation of the RAE population in line with the strategy under the Decade of Roma inclusion initiative. Regarding access to education, there has been some progress on enrolment of RAE pupils in primary and secondary schools and on addressing marginalisation in schools. The Ministry of Education and Science has dispersed RAE pupils across schools to avoid segregation, introduced a policy of affirmative action to secure acceptance of RAE students in secondary schools, conducted an awareness-raising campaign to encourage acceptance of RAE pupils, and special training for teaching RAE pupils.

However, further efforts are needed to improve the situation of the RAE population. As regards education, scholarship funding for RAE students remains at a token level and almost fully dependent on external donors. The unemployment rate among the Roma population remains around 80%, while the illiteracy rate is around 70% and even higher among women. There remains a lack of appropriate housing for the RAE community. Although the strategy recognises the lack of documentation and civil registration amongst the RAE population, only limited efforts have been made, in the form of encouraging local authorities to register the RAE population. It is estimated that a big percentage of the RAE population currently lack birth or citizenship certificates. The social and economic situation of the RAE population in Montenegro remains a cause for serious concern. They face marginalisation and lack of integration into society.

*Overall*, there has been some progress on strengthening the framework for minority protection. However, implementation is still lagging behind, *inter alia*, due to the lack of reliable data and a relatively limited budget. Montenegro must effectively resolve the status of displaced persons and work on improving their access to economic and social rights, which remains limited. Roma continue to face very difficult living conditions and discrimination, particularly regarding access to education, social protection, health care, employment and adequate housing.

### **2.3. Regional issues and international obligations**

Satisfactory cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)**, a key European Partnership priority, is continuing.

Investigation and court proceedings in Montenegro's limited number of domestic **war crimes** cases made headway or were concluded in cooperation with other countries in the region. The "Kaluđerski Laz" and "Morinj"<sup>5</sup> trials are continuing. In April 2009 investigation of the "Bukovica"<sup>6</sup> case was completed. The government agreed to pay an out-of-court compensation settlement to the survivors and families of the victims of deportations of Bosnian civilians in 1992. Several persons have been indicted for this crime. An investigation was opened by the Chief Prosecutor in 2009 concerning possible war crimes by former Yugoslav army pilots in Dubrovnik in the 1990s.

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<sup>5</sup> In the "Kaluđerski Laz" case, charges have been brought against eight people. The victims were civilians of Albanian origin. In the "Morinj" detention camp case, charges have been brought against six persons.

<sup>6</sup> In the Bukovica case, charges have been brought against seven persons. The victims were civilian muslims.

Montenegro maintains the 2007 bilateral immunity agreement with the United States granting exemptions from the jurisdiction of the **International Criminal Court**. This does not comply with the EU Common Positions on the integrity of the Rome Statute or the related EU guiding principles on bilateral immunity agreements. Montenegro needs to align with the EU position. Montenegro adopted a Law on Cooperation with the ICC in July 2009.

There has been little progress in the **Sarajevo Declaration** process which aimed to finalise the regional refugee return process by the end of 2006. While Montenegro continued to work to a greater or lesser extent on its roadmap, there has been limited discussion on implementation issues on either a bilateral or a regional basis.

**Regional cooperation** and good neighbourly relations form an essential part of the process of moving towards the European Union. Montenegro is actively participating in regional initiatives, including the South East European Cooperation Process (SEECP) and will take over its chairmanship in 2010-2011. Montenegro is also actively involved in the Regional Cooperation Council (RCC). In 2009 Montenegro holds the chairmanship of the Central European Free Trade Agreement (CEFTA) and also participates in the Energy Community Treaty and the European Common Aviation Area Agreement (ECAAA).

The Regional School for Public Administration (ReSPA) in Danilovgrad near Podgorica has become operational.

Montenegro has continued to foster good **bilateral relations with other enlargement countries and neighbouring EU Member State** Italy. Cooperation with neighbouring countries intensified particularly in the areas of cross-border cooperation and science and technology.

Relations with *Albania* have developed further. Agreements on cooperation in science and technology and in culture were signed and concrete steps against organised crime taken. The construction of the joint border crossing point at Muriqan/Sokobine was completed.

Relations with *Bosnia and Herzegovina* have further intensified. Following the signature of the Agreement on cross-border cooperation, joint border patrols have been set up. Agreements on cooperation in the areas of culture, education and science as well as a readmission agreement have been signed.

Cooperation with *Croatia* has been further strengthened. An agreement on protection of minorities was signed. The joint working group on resolving property issues and the council on economic relations both held meetings. An agreement on cooperation in science and technology was signed. Progress has been achieved towards settling the bilateral border issue between Croatia and Montenegro. The two countries have been co-operating on preparing their submission to the International Court of Justice on delimiting the border at Prevlaka. The temporary border agreement is functioning well.

Cooperation with *the former Yugoslav Republic of Macedonia* has been strengthened. An agreement on dual citizenship was signed, as were agreements on cooperation on EU affairs, air traffic, tourism, agriculture and protection in the event of natural disasters. Defence cooperation has been intensified. Negotiations on an agreement on social security are ongoing.

Relations with *Serbia* continue to be affected by the Montenegrin decision to recognise Kosovo's independence. The Montenegrin Ambassador was declared *persona non grata* in October 2008. A new Ambassador was accredited to Belgrade in September 2009. Cooperation in the defence sector was good and the Serbian Minister for Defence visited Podgorica in February 2009. The Montenegrin President visited Belgrade in May 2009. Economic cooperation remains good. On the basis of a bilateral agreement, Serbian diplomatic and consular missions in some countries continue to provide services to Montenegrin citizens. Negotiations on dual citizenship are ongoing but progress has been limited. Agreements on judicial cooperation and joint border patrols were signed. Police cooperation in the fight against organised cross-border crime was strengthened. Talks on border demarcation are ongoing.

Relations with *Turkey* have remained good. Agreements were signed on free trade and on bilateral defence cooperation.

Bilateral relations with *Italy*, Montenegro's neighbouring EU Member State, have further developed. The EU is Montenegro's main trading partner.

*Overall*, Montenegro has further improved its active cooperation in the region, by intensifying its participation in multilateral initiatives and organisations and by further fostering bilateral relations.

### **3. ECONOMIC CRITERIA**

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

#### **3.1. The existence of a functioning market economy**

##### *Economic policy essentials*

Montenegro submitted its third Economic and Fiscal Programme (EFP), covering the period 2009-2011, by the end of January 2009. However, its assumptions became very quickly outdated due to the crisis. Yet, the fiscal strategy of the government continued to focus on keeping the budget deficits within 3% of GDP in both 2009 and 2010 despite the negative impact of the crisis and the cost of the measures adopted to mitigate its effects. Meanwhile, the government coalition partners overcame some of the previous discrepancies of views on economic policy. *Overall*, the domestic consensus on economic policy essentials has been maintained.

##### *Macroeconomic stability*

The economy continued to grow strongly at around 8% in real terms in 2008 driven by strong demand and, on the supply side, by construction and services. However, at the end of 2008 industrial output contracted on the poor results of manufacturing, and the metal industry in particular. This sector suffered from decline in external demand in the context of the international crisis and the subsequent collapse of commodity prices. In the first half of 2009 the economy contracted by 3.5%, as the negative effects of the crisis extended to several key sectors (i.e. basic metals, financial services, and construction). Industrial production

contracted on average by 20% year-on-year in the first six months of 2009, as manufacturing output went down by 33%. Only three manufacturing industries (chemicals, foodstuffs and printing) and the utility sector expanded in the first half of the year compared with the previous one. On the other hand, after a bad spring the tourism industry recovered during the summer. Yet, as a consequence of the robust economic growth witnessed during most of 2008, Montenegro's per capita income, measured in purchasing power standards (PPS), rose to 46% of the EU27 average, compared with 41% a year earlier. *Overall*, after the high growth in 2008, the economy contracted in 2009 mainly due to the impact of the global crisis on the real economy.

In 2008, the current account deficit remained very large at 29% of GDP, despite the strong cutback in merchandise imports (45% year-on-year) in the last quarter of the year due to the sharp deceleration of the banks' lending activity. The surplus of the balance of services was on a declining trend. The factor income balance deteriorated in 2008, as compensation paid to the increasing number of foreign workers outpaced incomes from Montenegrins working abroad. The cool-down of the real estate market in 2008 resulted in a decline of FDI inflows by 17.4% year-on-year. Yet, the sizeable outflows associated to this market also decreased, which contributed to sustain net FDI levels at 17% of GDP. Foreign loans increasingly covered the financing gap of the current account deficit. The moderation of both domestic demand and imports related to foreign investments continued during the first half of 2009, resulting in a significant narrowing of the trade deficit by 36.6% year-on-year and a moderate contraction of the current account deficit to 22% of GDP (annualised). The faster decrease of FDI outflows by 53.2% over the year offset the decline in inflows (16.6%), so that on a net basis FDI still expanded to 16% of GDP, covering 80% of the current account deficit. *Overall*, as a consequence of the crisis, the large current account deficit declined until June 2009, while net FDI remained resilient.

The labour force survey (LFS, according to the ILO definition) revealed that the unemployment rate declined by 3 percentage points to 16.8% during 2008. More recent data from the Employment Agency shows that the official unemployment rates for 2009 also continued contracting until end-August. Meanwhile employment continued growing during 2009 by some 5% year-on-year. The unbalanced regional distribution of the workforce and its limited mobility remain a rigidity factor, favouring continued inflows of foreign workers. Yet, the government relies on the significant share of temporary non-resident workers to cushion imbalances on the local labour market. *Overall*, labour market indicators improved on favourable seasonal effects, despite diminishing economic activity.

In 2008 macroeconomic stability was also challenged by high prices. Yet, after peaking in August 2008 close to 10%, the average annual inflation declined to 7.4% by the end of the year. The consumer price index further slowed down to 2.1% year-on-year in July 2009 as housing and transport prices exerted a downward pressure. With the euro as sole legal tender<sup>7</sup> the room for autonomous monetary policy remained limited. The Central Bank of Montenegro (CBCG) continued to use prudential requirements, in particular reserve requirements, as intervention tools. The CBCG has been very active trying to preserve the stability of the local

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Montenegro unilaterally uses the euro as legal tender, without participating in the euro area. In October 2007 the Council adopted a declaration on the *de facto* use of the euro in Montenegro which is due to exceptional circumstances.

financial system. In autumn 2008 the growth of broad money supply<sup>8</sup> turned negative due to serious withdrawals of bank deposits. The CBCG intervened by urgently adopting a set of measures for protecting the banking system, consisting in a full guarantee for deposits and the possibility of government credit support for eventual liquidity shortfalls of banks. *Overall*, inflation has been decelerating as the economy cooled down.

The lending activity of commercial banks expanded by 23% year-on-year in 2008, as compared with 165% a year before. The moderation was initially the consequence of the Central Bank measures to bring the lending boom down to sustainable levels. The credit portfolio reached 83% of GDP in 2008 up from 80% a year earlier, while bank deposits declined by 6.7% year-on-year. During the first half of 2009 the liquidity shortage triggered by the withdrawal of deposits constrained the lending capacity of the banking sector. The contraction of deposits reached 11.7%, while credit growth dropped by 5.9% since the start of the year. *Overall*, the liquidity of the banking system was challenged by the problems in the second largest lender and the effects of the global financial crisis.

In 2008 the budget execution yielded a surplus of 0.5% of GDP. Consolidated public expenditures increased significantly, reaching 44% of GDP from 41% of GDP in 2007, boosted by rising transfers to social security institutions and to households. This expansionary increase in spending commitments put additional pressure on fiscal policy as of early 2009, when the local repercussions of the crisis resulted in lower fiscal revenues than planned. Nonetheless, the authorities reacted promptly by curtailing spending and still maintaining a budget surplus of 0.4% of GDP in the first half of 2009. The government revised the 2009 budget in July, notably by reducing capital investments, expenditures in goods and services and planning wage cuts in public administration, in order to maintain the deficit at 2.6% of GDP. Loans from foreign private banks were subscribed and a minority stake in the power utility (EPCG) was sold to a foreign partner. However, other fiscal risks, in particular the contingent liabilities linked to the restructuring packages for the metal industries and the liquidity problems in the banking sector. *Overall*, public finances have come under increased pressure in 2009, but the authorities managed to limit the deficit by curtailing spending, borrowing and selling assets.

In 2008 the public debt remained broadly unchanged in GDP terms at 26.8%. Public debt further increased in the first half of 2009 to 28.4% of projected annual GDP. Public domestic debt increased by 9% since the beginning of the year, while the public external debt grew faster, by 15% since end-2008, mostly due to investments in infrastructure co-financed by international financial institutions. During the third quarter of 2009, the government subscribed two loans worth 3.4% of GDP from foreign private banks for financing the state budget, bringing public debt above 30% of GDP at the end of the year. *Overall*, debt obligations are rising due to infrastructure spending and loans to finance the emerging budget deficit.

Macroeconomic policy has been driven to a large extent by the financial crisis. It focused on implementing a more prudent fiscal policy and accelerating structural reforms in several sectors. For instance, developing a more market-oriented approach to highway construction by involving the private sector through Public-Private Partnerships (PPPs), reducing the fiscal

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<sup>8</sup> The broad measure of money (M21) aggregate consists of deposits of banks with the Central Bank and demand and term deposits with banks and the Central Bank, in euros and other currencies, including deposits of the central government.

burden on labour to increase competitiveness, or developing the legislative framework for the financial system with the adoption of legislation based on EC Directives. The Central Bank has also contributed to macroeconomic stability by timely adapting monetary policy to fast-evolving circumstances. In 2008 the CBCG introduced a restrictive policy to reduce the exposure of the economy to the surge of a credit bubble. In 2009 it reversed its path, easing reserve requirements to release more liquidity into the financial system. *Overall*, structural reform policies combined with a timely adaptation of the fiscal and monetary policy to the international crisis impact, are contributing to recovery.

### *Interplay of market forces*

The share of the private sector in the economy is very large as the public sector is mostly reduced to network industries (utilities and transport). Moreover, the influence of the public sector in price dynamics is practically limited to the energy sector. The energy regulator establishes electricity prices in relation to production cost thresholds. In June 2009, the Administrative Court annulled the energy regulator's decision to increase electricity prices. As a result, some €20 million from the overhead prices are being returned to consumers gradually by decreasing prices for electricity until the debt is settled. The privatisation process also suffered from the global crisis as some successful bidders failed to conclude a sales agreement. This was notably the case with the auctions of the tobacco retailer Duvankomerc, and the publisher Pobjeda. A few publicly owned companies failed repeatedly to attract interest from investors, such as the appliances factory Obod or the insurance company Lovćen. In these cases, new privatisation methods are proposed and companies are being slated for sale again. Further progress has been recorded in the privatisation of key energy and transport systems. The government sold a minority stake in the power utility (EPCG), providing the possibility for the new partner to acquire majority control of the company after five years. The railway transportation company and the port of Bar have already established their freight units as completely independent companies, preparing their privatisation through concession deals. However, restructuring of the aluminium and steel plants remains a considerable challenge. *Overall*, the privatisation process is quite advanced and state intervention in the economy has remained limited except for temporary rescue operations in strategic sectors such as basic metals and banks.

### *Market entry and exit*

The Council for the elimination of business barriers, established in mid 2008, continued its activity in 2009. Achievements in the relevant period included the simplification of administrative procedure for obtaining construction permits and reviewing technical documentation and enhancement of transparency through the relevant authorities' obligation of publishing related documentation on their website. The operation of new trade outlets does not require any longer municipal license but a simple announcement of intent for record purposes. In addition, the authorities have also established a website for gathering online requests from entrepreneurs to remove further barriers. However, electronic signature legislation still needs to be implemented in order to benefit from the full potential of online business and administrative transactions. Market exit procedures have been reduced to six months on average. In the first half of 2009, in spite of the crisis, registration of new enterprises continued at an average of 212 new limited liability companies per month compared with 284 during 2008. During the first five months of 2009 the Commercial Court registered 134 bankruptcy procedures, a similar number to that recorded during the same period a year before (138). The backlog of ongoing cases decreased to 139, practically converging with the number of newly opened files. Additionally, 284 companies applied for



voluntary liquidation under the Law on Insolvency, and were subsequently removed from the registry of the Commercial Court. *Overall*, market entry has improved and exit procedures have been further streamlined.

### *Legal system*

Three key pieces of legislation regulating property rights were adopted in 2009. The Concession and the State Property Laws introduced more comprehensible concession rights on public properties and resources, with the possibility of extension of such contracts up to 90 years. The Property Relations Law provides the same treatment to foreign citizens as to nationals for acquiring movable and immovable property, although some limitations still remain for foreigners purchasing agricultural land, for which the new law provides long-term leasing as an alternative. Recourse to the judicial system increased as previous reluctance to resolve commercial disputes through official circuits is fading away, also due to the negative effects of the crisis. During the first half of 2009 the Commercial Court received 5,200 cases (compared with 1,279 a year before). However, the large informal sector is fuelled by weaknesses in tax and expenditure policies, as well as in law enforcement, including the fight against corruption and organised crime. The informal sector remains an important challenge, as it reduces the tax base and the efficiency of economic policies. *Overall*, the new property laws improved legal certainty facilitating foreign investors' engagement in large projects. However, the fight against corruption and tackling the large informal economy remain major challenges.

### *Financial sector development*

The size of the banking sector in terms of assets stabilised at 99% of GDP by the end of 2008, compared with 106% a year earlier. However, banks assets further contracted to 88.7% of GDP by end-June 2009 as deposit withdrawals and negative lending growth persisted. The sector remained highly concentrated, with three banks holding 63.9% of the banking sector's assets and 58.8% of total deposits. Excessive risk taking by Prva Banka -the second largest bank- without due concern for prudent banking practices, resulted in stability risks for the whole sector. Faced also with the effects of an international crisis threatening the domestic market, the Central Bank together with the government adopted several measures for the protection of the banking system. A full guarantee for all deposits, and the possibility of government credit support for liquidity shortfalls or for recapitalisation were granted. In an attempt to improve positions of both lenders and debtors and to create more space for bank lending activities, the CBCG also introduced additional measures to create more favourable conditions for loans restructuring and further reduced the rate of mandatory reserves on existing deposits to 10%, with no reserve requirements for new deposits. The government also intervened by providing a credit support of € 44 million (about 1.3% of 2008 GDP) to Prva Banka in exchange for this bank's shares placed as collateral. The bank has meanwhile managed to repay 75% of the loan. The withdrawal of deposits set off in October 2008, occurring at a rate of 18% until February 2009, moderated to an average monthly contraction of 0.2% in the second quarter of 2009. As a result, during the first half of 2009 the banking system lost deposits for some 5.7% of GDP, most of it from the two biggest banks. End-June 2009, the average capital adequacy ratio came down to 11.9%, close to the stipulated 10% minimum level, while the ratio of non-performing loans<sup>9</sup> climbed to 8.9%, compared with

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<sup>9</sup> Considering the Central Bank of Montenegro's stricter classification of past-due loans as any loan that is past due for more than 61 days, compared with the Basel II classification of after 90 days.

3.9% a year before. In June 2009 the average weighted effective lending interest rate peaked at 9.38%, while the weighted average deposit effective interest rates recorded 3.80%, down from 9.40% and 4.10% respectively in December 2008. *Overall*, the stability of the financial system was maintained under very difficult circumstances.

The domestic insurance market further expanded by a more modest 18% year-on-year in 2008, following a 28.7% expansion of billed premiums a year before. End 2008 there were 11 companies active in the sector, after several new firms entered the market. The sector remains highly concentrated, with one company holding a 61% market share. The industry accounts for some 3% of GDP and is primarily made up of compulsory insurance. Its life insurance segment is developing fast from a very low base and accounted in 2008 for some 12% of total premiums (compared with 4.5% a year before). The leasing market continued its rapid expansion in 2008, increasing contract value by 42.2% year-on-year, representing 4.9% of GDP (compared to 4.1% a year before). The majority of leasing contracts relate to real estate and vehicle purchases. The two stock exchanges showed signs of recovery in May 2009 as the markets were positively influenced by the sale of a minority stake in the power utility EPCG. In May, after more than one year of continuous deterioration, the aggregate capitalisation rose to 147% of GDP, from 116% in the previous month. *Overall*, while the non-banking financial sector continued expanding, capital markets went through a severe correction.

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

#### *Existence of a functioning market economy*

Quick responses to a fast-changing and difficult global economic environment prevented a deep deterioration of macroeconomic stability, as employment was preserved, prices moderated and the public deficit was contained. Macroeconomic stability was seriously challenged by an expansionary fiscal stance in 2008, followed by liquidity problems in the banking sector, and current contingent liabilities in the metal sector. Apart from direct support to metal smelters and one bank, the authorities' rescue plans focused on accelerating structural reforms and preserving the stability of the financial system. To this end, the government provided credit guarantees to international banks for extending loans to domestic lenders which freely decided on the final allocation of credit. *Overall*, the functioning of market mechanisms was challenged by the magnitude of adjustments taking place in the external accounts and the financial sector.

#### *Human and physical capital*

In the context of still persistent labour demand, several educational reforms were implemented to align the supply side with market requirements, not least the Law on National Vocational Qualifications, and the strategies for introducing didactic software in education and for establishing the qualification framework. For young managers having already graduated, the Agency for Employment (ZZZ) together with the Directorate for Small and Medium-Sized Enterprises (SMEDA) implemented practical training programmes. The Agency continued its activities with academic institutions, providing professional guidance, but also adopting programmes for the integration of minorities into the workforce as well as to improve work participation rates, especially in the poorer northern region. *Overall*, the skills mismatch remains an important issue. In some labour intensive sectors the country needs to resort to foreign workers to sustain economic growth.

Gross fixed capital formation (GFCF) as a share of GDP reached 24% in 2007. Estimates for 2008 suggest a ratio of 30% of GDP. Almost 40% of FDI invested in 2008 went into real estate, 30% in domestic companies and banks and a similar amount in intercompany debt (namely foreign banks towards local subsidiaries). Public capital spending increased in 2008, reaching 9.3% of GDP, compared with 6.7% a year earlier. However, during the first half of 2009, further moderation in credit expansion and budget spending cuts reduced capital formation. *Overall*, worsening economic conditions did not stop restructuring in energy and transport as well as the launch of major concessions for private investments in tourism and highways.

### *Sectoral and enterprise structure*

The crisis exacerbated the weakness of the main industries of the country –basic metals production– already hampered by excessively high production costs. To restructure and address the structural problems of the aluminium smelter, and the more cyclical ones of the steel mill, the government provided credit guarantees and a redundancy programme to proceed with technological upgrades and labour cuts. In the energy sector, after the separation of the transmission unit from the power company (EPCG), establishing tariffs for the use of the network and the adoption of secondary legislation, all necessary preconditions were formally met for the development of competition and establishment of the electricity market. Meanwhile, the government sold in July a minority stake in the utility, retaining a 55% share. The new partner may later acquire majority control in EPCG subject to successful implementation of the investment programme. The railway transportation company and the port of Bar separated their freight units, thus preparing the ground for their privatisation also with a view to securing the necessary capital for their modernisation. The national air carrier, Montenegro Airlines, implemented the first stage of its restructuring by transformation into a shareholder company. *Overall*, a significant restructuring of strategic enterprises and sectors is underway.

The structure of the economy continued shifting towards services. More than 70% of total employment during 2008 was recorded in services. Public administration employees<sup>10</sup> in total services decreased by 2%, while the private sector witnessed an increase of 4% year-on-year, driven by large increases in the number of hotel and restaurant workers, but also transport and financial activities. Yet the largest share of tertiary labour remains wholesale and retail trade (20% of total labour). The industrial sector represented 22% of the total workforce, but is on a declining trend. The participation of workers in agriculture, forestry and fishing represented some 8% of total employment. *Overall*, most of the advertised employment vacancies (63%) concerned jobs in tourism, construction and trade sectors, confirming that the economic shift to these activities continues.

Small and medium-sized enterprises (SMEs) are proving their resilience as the number of bankruptcies in 2009 remained at the same level as a year before although the number of unpaid invoices reported by the Central Bank payment system has been rising. The SME sector represents some 60% of GDP and employs 67% of the total workforce. Most companies (77%) have less than 10 employees and deal largely in retail and repair services. They still face a number of persistent difficulties, such as revolving existing loans, obtaining municipal permits or the absence of spatial planning documents. *Overall*, SMEs went through

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<sup>10</sup> Including: public administration, social insurance, education, health and social workers.

very difficult conditions, confronting increasing payment arrears, diminishing demand and stricter conditions to obtain bank loans.

### *State influence on competitiveness*

Government intervention in the economy expanded with the adoption of several initiatives in support of those sectors most affected by the crisis, namely banking and metallurgy. Since the start of the crisis until mid-2009 state guarantees amounted to 9% of GDP, of which 42% were for loans to the aluminium complex KAP and the bauxite mine RBN (partially renationalised), 47% to banks and 8% to the steel mill Niksic. The measures approved to protect banks depositors benefited both local and foreign lenders operating in the country. The authorities also adopted a programme reducing electricity prices for the most vulnerable categories of the population, as well as for SMEs. In addition, the major industrial companies (the steel mill and the aluminium factory) saw their temporary subsidies for the purchase of electricity extended on condition of achieving major restructuring. *Overall*, increased state intervention occurred as a reaction to the unfolding crisis.

### *Economic integration with the EU*

As a consequence of the crisis the annualised level of openness of the economy decreased in the first half of 2009 to 50.6% of GDP, from 83% a year earlier. The main foreign destination for domestic products remains the EU, which accounts for 57.8% of the total (down from 64.6% in 2008), followed by CEFTA countries (40.2%, up from 33.4% in 2008). The reversed trend was confirmed for imports, which mostly originate from neighbouring CEFTA countries (53.3%, up from 50% a year before), followed by the EU (38.2%, down from 41.4% in 2008). *Overall*, trade openness remained high, although the severe contraction of the metal industry brought down the main export of the country, traditionally oriented to the EU market.

## **4. EUROPEAN STANDARDS**

This section examines Montenegro's capacity gradually to approximate its legislation and policies to the *acquis* related to the internal market, sectoral policies and justice, freedom and security, in line with the Stabilisation and Association Agreement and the European Partnership priorities. It also analyses Montenegro's administrative capacity. In each sector, the Commission's assessment covers progress achieved during the reporting period and summarises the country's overall level of preparations.

### **4.1. Internal market**

#### *4.1.1. Free movement of goods*

Some progress can be reported on **standardisation**. The internal rules and procedures have been drafted for the Institute for Standardisation (ISME) which is responsible for planning, developing, approving, publishing and maintaining Montenegrin standards and related documents. ISME has increased its staff to 16 and moved to new premises which provide the necessary working conditions. Besides the database developed under the former State Union, Montenegro is currently developing its own database of national standards. ISME has so far adopted about 1,800 Montenegrin standards, of which 85% are European standards. ISME has begun to develop a network of technical committees involving all the main stakeholders (professional associations, scientists and government authorities) in the most relevant sectors.

In July 2009 ISME became an affiliate member of the European Committee for Electrotechnical Standardisation (CENELEC).

Limited progress can be reported with **conformity assessment**. The government has adopted by-laws implementing the Law on Technical Requirements and Conformity Assessment. These include decrees on methods and procedures for conformity assessment of products and procedure of notification in the area of technical regulations, standards and conformity assessment procedures. Enquiry points for technical regulations and standards have yet to be established.

Limited progress can be reported in the field of **accreditation**. The new Law on Accreditation was adopted in July 2009. The Accreditation Body of Montenegro (ABM) signed a contractual agreement with the European co-operation for Accreditation (EA) in November 2008 and became an associate member of the International Laboratory Accreditation Cooperation (ILAC) in April 2009. It received a number of applications but accredited no new bodies. Improving coordination with other parts of the quality infrastructure and enhancing the administrative capacity of the ABM itself are preconditions which must be met before the quality infrastructure can function properly.

Some progress has been made as regards **metrology**. A new Law on Metrology was adopted in December 2008. A by-law on legal units of measurement was also adopted in February 2009. The Bureau of Metrology has a staff of 28 out of the 34 planned. The bureau became an associate member of WELMEC (European Cooperation in Legal Metrology) in April 2009. Conditions in five laboratories (for mass, length, electrical quantities, temperature and pressure) are still not up to the required standard.

There has been limited progress in the area of **market surveillance**. The administrative capacity of the Market Inspectorate and of the other authorities carrying out market surveillance activities has been strengthened. However, by-laws necessary to implement the Law on General Product Safety have not been adopted yet. Among these are also rules on methods of exchange of information on dangerous products which would set the legal basis for the Market Inspectorate to become the future national contact point for the RAPEX system in the future. Further efforts are needed to raise administrative capacity in this field, to develop and implement a market surveillance strategy with adequate coordination and cooperation between relevant authorities, to create a market surveillance information exchange system and to introduce modern risk assessment techniques for market control.

Good progress was made in the area of **consumer protection**. The focus was on implementing the national consumer protection programme (NCPP) and the corresponding action plan. The government adopted a report on the first year of implementation of the NCPP (April 2008–March 2009). Cooperation with NGOs dealing with consumer protection was strengthened as a result of implementation of the NCPP and for the first time the State provided funds to NGOs for consumer protection-related activities. Twenty members of the arbitration board on consumer protection, the body in charge of out-of-court settlement of disputes, were appointed in December 2008 for a four-year mandate. The first case was handled and other cases are now before the board waiting for decision. Awareness-raising activities on the existence and purpose of the arbitration board are needed, along with further development of the capacity of board members.

*Overall*, preparations in the area of free movement of goods continued, even though they are not very advanced in the area of market surveillance. Montenegro still needs to strengthen its

institutional and administrative capacity further, improve cooperation between the relevant State institutions and accelerate transposition of the product-specific *acquis* into its national legislation.

#### 4.1.2. *Movement of persons, services and right of establishment*

Further progress has been made on **movement of persons** and access to the labour market. The Law on Employment and Work of Foreigners, regulating the movement of labour force by introducing a work permit system with annual quotas entered into force in January 2009. By-laws necessary for the implementation were adopted, including one to fix the quota of work permits for foreigners in 2009. The Law on Foreigners relating to terms and conditions of entering, movement and stay of foreigners was adopted in December 2008.

As regards *coordination of social security*, the social insurance agreements ratified between Montenegro and Luxembourg, Hungary and Switzerland brought significant improvements for Montenegrins working abroad.

In the process of finalising negotiations for accession to the World Trade Organisation (WTO), Montenegro ensured extensive liberalisation as regards freedom to **provide services**. Work permits and quotas as foreseen by the mentioned Law on Employment and Work of Foreigners apply also as precondition for individual cross-border service-providers. No work has been done on the distinction between the arrangements applicable to cross-border provision of services by EU operators in Montenegro and to service-providers established in Montenegro.

There has been some progress in the banking sector. Following adoption of the Law on Banks, the Central Bank adopted a further set of related by-laws to be implemented by all banks by March 2009. In particular, the minimum capital adequacy ratio was increased from 8% to 10% and the system for reporting by banks was improved by direct connection with the Central Bank. The Central Bank concluded memoranda of understanding with a number of home supervisors of foreign banks, covering seven of the nine countries which operate bank subsidiaries in Montenegro. In response to the global economic crisis, in October 2008 the government adopted a Law on Measures for Protection of the Banking System and related implementing legislation, to be applied until the end of 2009. The law provides for a full government guarantee for the deposits of physical and legal persons. In addition it provides the possibility of government guarantee for inter-bank loans against shares as collateral, government credit support, Central Bank short term loans and provision of additional capital or obligatory capital provision for individual banks. These last are also allowed to temporarily use of up to 50% of their mandatory reserves.

Further alignment with the *acquis* is still required, in particular regarding the Capital Requirements Directive. Further strengthening of administrative capacity is still needed, particularly of supervisory capacity with an increased focus on risk-based supervision, consolidated supervision and cross-sector and international cooperation, including with home supervisors.

The institutional framework for supervision of the non-banking financial sector continued to improve. Thirteen by-laws related to the umbrella laws on insurance and several by-laws related to securities were adopted. The agency for insurance supervision recruited additional staff, bringing the total to 10 out of the 17 planned. Further recruitment of staff and upgrading of implementation capacity are needed. In February 2009 the Securities Commission signed

the Multilateral Memorandum on Cooperation with the International Organisation of Securities Commissions (IOSCO).

As far as postal services are concerned, a strategy for the postal sector was adopted in December 2008.

Limited progress can be reported on the **right of establishment**. The Property Relations Law introduced the same treatment to foreign citizens as to nationals for acquiring movable and immovable property, however with some limitations for agricultural land, providing for long-term leasing as an alternative (*See points 3.1 The existence of a functioning market economy, and 4.1.3. Free movement of capital*). No progress can be reported on recognition of professional qualifications. An updated operational plan for elimination of business barriers has not yet been developed.

No further progress can be reported regarding **company law**. A Law on Insolvency Procedures is at the drafting stage and the draft Law on Takeovers of Joint Stock Companies is before the government.

Some progress has been made in the areas of accounting and auditing. Amendments to the Law on Accounting and Auditing introduced, *inter alia*, requirements on the transparency of reporting, quarterly electronic reporting and supervision. The new law provides for establishment of an accounting and auditing council, an advisory body to promote accounting and auditing regulation and good practices. The government adopted a strategy and action plan to promote financial reporting. However, gaps remain in establishment of an independent public oversight system. The division for accounting and auditing in the Finance Ministry currently carries out inspections but is understaffed. The planned supervisory authority has yet to be established.

*Overall*, in the areas of free movement of persons, services and right of establishment, Montenegro partly meets the targets and priorities set.

#### *4.1.3. Free movement of capital*

There has been further progress in the field of free **movement of capital**. A Law on State Property and a Law on Property Relations were adopted in February 2009. Conditions for acquisition of movable and immovable property have been clarified, however some restrictions remain on foreign natural and legal persons owning property in Montenegro and therefore the new legal framework does not yet allow treatment completely equivalent to that given to Montenegrin nationals. Limits are imposed on acquisition of ownership rights over *inter alia* forests and forest land, agricultural land, cultural monuments of special importance, real estate within one kilometre of the land border or islands.

With reference to **payment systems**, a new Law on National Payment Operations was adopted in October 2008, regulating transfers of funds, inter-bank transfer settlements, electronic means of payment and establishment and control of payment operations. Twelve related by-laws were also adopted.

*Overall*, Montenegro has met the priorities and objectives set in the area of free movement of capital.

#### 4.1.4. Customs and taxation

Further progress was achieved in the area of **customs**. The customs tariff nomenclature was harmonised with the 2009 EU Combined Nomenclature and duties were reduced in line with the Interim Agreement. The Convention on Temporary Admission (Istanbul Convention) was ratified. Fees for customs services have been harmonised with Article VIII of GATT, but not yet with the SAA and the *acquis*.

In relation to the previous year the total amount of duties and taxes collected by the customs administration increased by 6.5%. New division and database for dealing with infringements of intellectual property rights has been set up within the customs administration (*See point 4.1.7 Intellectual property law*). A joint border crossing point with Albania became operational in June 2009. Further training on rules of origin, valuation of imported goods and protection of intellectual property rights was organised for both customs officers and economic operators. An agreement on integrated border management has been signed with the police and the health administration. Montenegro signed with Serbia an agreement on facilitating border controls on goods transported by rail. An agreement on mutual assistance on customs matters with Moldova was signed and ratified by parliament. Montenegro also participates in a regional project in order to exchange pre-arrival customs information with neighbouring countries, in order to facilitate trade and enforce customs legislation. To enhance cooperation with EU customs administrations and the Commission, Montenegro asked to join the Community's Customs 2013 Programme. The customs administration currently employs 579 staff out of the 669 planned. Recruiting and retaining staff is a recurring problem, which weakens the administrative capacity of the institution. No business or IT strategy has been adopted.

Overall, legislative alignment with the *acquis* is well on track and the customs administration has been able to manage implementation of the SAA. However, further alignment is still required in areas such as origin, transit and simplified procedures, customs valuation and customs fees. A business and IT strategy needs to be developed and attention needs to be paid to strengthening the administrative capacity in terms of project management skills and quality assurance. The fight against corruption remains a key priority.

Further progress can also be reported on **taxation**. With reference to direct taxation, personal income tax was reduced from 15% to 12%. In the case of corporate taxation, legislative amendments cut the tax rates on dividends from 15% to 9% and eliminated double taxation of profits paid by subsidiaries to parent companies. As for indirect taxation, amendments to the Law on Excise and related by-laws improved alignment with the *acquis*, in particular on increasing excise on cigarettes, other tobacco products and mineral oils with effect from October 2009. The legislation is, however, not yet completely aligned with the European standards. This applies, in particular, to the excise arrangements for energy products and small producers of alcoholic beverages, to zero or reduced VAT rates or special VAT schemes and to the principles of the code of conduct for business taxation which have not yet been implemented. Amendments to the Law on Administrative Taxes improved alignment with Article VIII of GATT.

In 2008 the gross tax and contributions collected by the tax **administration** were 26.5% higher than in 2007. In the first quarter of 2009 they were 10.5% higher than the planned budget revenue. A project is under way to introduce both a single tax registration form and a single tax return form. To improve operation of its tax system, Montenegro asked to join the Community's Fiscalis 2013 Programme. The tax administration currently employs 613 staff



out of the 744 planned. Its main needs remain additional long-term recruitment and professional training. IT strategy is in place. Project management skills and quality assurance methods have not yet been introduced.

*Overall*, alignment with the *acquis* is on track, although further alignment is still required. Further progress towards modernising the tax administration is also needed, with particular emphasis on tax collection and controls, including effective use of risk analysis. The effort to reduce informal economy needs to continue. A business and IT strategy needs to be developed and project management skills and quality assurance have to be introduced.

#### 4.1.5. Competition

Limited progress can be reported in the field of **anti-trust**. Efforts are still required to adopt the new Law on Competition Protection, to further improve the existing legislation, transform the existing Administration for Competition protection (ACP) into a fully independent Competition Protection Authority (CPA) and establish a system of deterrent fines. Implementing rules are also still to be adopted.

Between October 2008 and August 2009 the ACP decided twelve merger cases and examined two case of abuse of a dominant position. The ACP is gradually improving its capacity with the aid of training courses. Out of a planned staff of thirteen, the ACP currently employs ten. Its administrative capacity needs to be further enhanced to allow it to exercise its future investigation, decision-making and sanction powers and eventually secure full professional and financial independence. Additional efforts are also required to raise public awareness of competition policy.

Further progress can be reported in the area of **State aid**. The government adopted a new draft Law on State Aid Control in April 2009 and prepared a series of by-laws with the aim of further alignment with the *acquis*.

The State Aid Control Commission (SACC) continued strengthening its administrative capacity with the aid of training. From October 2008 to August 2009 the SACC took eleven decisions and three conclusions. A department for control of state aid was set up within the Finance Ministry in November 2008. It currently employs three persons. However, the capacity of both the SACC and the state aid department still needs to be strengthened to enable them to assess complex state aid cases autonomously and to play an active and visible role in the design of government support to national operators. A preliminary inventory of state aid schemes was compiled, but additional efforts are required in order to complete it.

*Overall*, Montenegro partially meets its targets in the area of competition. Further improvement of the framework for protecting competition and upgrading of the relevant administrative capacity are required. In particular, the State aid control system needs to be strengthened and the capacity of the SACC and the State aid department needs to be enhanced.

#### 4.1.6. Public procurement

Some progress has been made in the public procurement system, notably in the form of adoption of implementing legislation, training to support contracting entities and awareness-raising in the private sector.

A new Law on Concessions was adopted in January 2009. However, it falls short of the requirements of the *acquis*.

Improvements have been made with regard to transparency. The State Commission for the Control of Public Procurement Procedures (PPC) publishes its decisions and all complaints on its website. All tenders are currently published on the Public Procurement Directorate's (PPD) website. There has been no progress towards introducing electronic procurement.

The 2006 Public Procurement Law established a complex framework for qualification of bidders and documentation requirements. The two key institutions – the PPD and the PPC – currently employ 15 and 8 staff respectively. They both require additional staff. Administrative capacity in general needs further upgrading, in particular as regards anti-corruption activities and integrity. Procurement officers and procurement departments within the contracting entities have not yet been sufficiently developed. The new Law on Concessions does not distinguish clearly between concession contracts and public contracts. Further work is needed on the definitions for works concessions and the relevant implementing legislation has yet to be adopted. The Concession Committee should be set up to handle complaints about the award of concessions, keep a concession register and approve the use of certain procedures. Additional efforts are needed to introduce a separate procurement system for utilities and fully transpose the Utilities Directive. The introduction of e-procurement needs to be started and centralised procurement seriously considered by the authorities. *Overall*, Montenegro partially meets its targets in the area of public procurement. Further efforts are needed to align the legislation with European standards and to build up the administrative capacity.

#### *4.1.7. Intellectual property law*

Some progress has been made in the field of **intellectual property rights** and **industrial property rights**. The legislative framework has been improved with the adoption of a Law on Patents which is generally in line with international and EU standards. Implementing legislation remains to be adopted. Amendments to the Regulation concerning the validity of existing intellectual property rights were made to eliminate legal gaps related to the validity of national IP rights and to bring the procedures into line with international agreements. Following the amendments to the Decree on the fees for customs services, since January 2009 holders of IPR are not required to pay a fee for processing requests for IPR protection. A uniform request form is being introduced to ensure equal treatment by the customs authorities, in compliance with the model laid down by Commission Regulation 1891/2004. An agreement on the extension of European patents to Montenegro was signed with the European Patent Office (EPO) in February 2009 allowing the validity of European patents on the territory of Montenegro but has not been ratified yet.

The Montenegrin Intellectual Property Office (MIPO) is gradually improving its capacity. Also, a division for intellectual property was established in the customs administration. It prepared an information brochure for the public on customs measures to protect IPR and combat counterfeiting and piracy. In September 2008 an intellectual property database, based on the UK model, was installed (*See point 4.1.4 Customs and taxation*). Customs staff dealing with IPR attended a number of training courses and international conferences. As for judicial protection, the Podgorica commercial court established a specialised intellectual property division.

However, an IPR strategy is not yet in place and further strengthening of the legislative framework remains necessary. The administrative capacity of the MIPO is insufficient, especially in terms of human resources, as it currently employs 17 out of the 22 staff planned, premises and IT capacity (network, databases and registers). The market inspectorate also needs further strengthening, including establishment of a specialised unit to deal with IPR infringements and the hiring of specialised market inspectors. Further measures are also required to develop an information system connecting the various bodies involved and supporting the data exchange and to introduce modern risk assessment for performing market control. The number of police staff dealing with IPR infringements is still insufficient. Specialised training needs to be provided for judges working in this sector. Further efforts are needed to improve overall cooperation and coordination between enforcement bodies, including the Market Inspectorate, and also cooperation with rights-holders.

*Overall*, preparations in the area of IPR protection are at an early stage, in particular with regard to the institutional and enforcement capacity for dealing with complex IPR cases and public awareness of protection of intellectual property rights.

#### 4.1.8. *Social policies, employment and public health policy*

In the area of **social policies**, as regards *labour law* the legal framework remains the 2008 Labour Law.

The legislation on *health and safety at work* has yet to be brought in line with European standards. A Law on Labour Inspection was adopted in December 2008, but the capacity of the Ministry of Labour and Social Welfare, including its labour inspection department, remains weak. There are currently 11 safety at work inspectors in charge of labour inspection.

With regard to tripartite *social dialogue*, the government decided to establish an agency for peaceful settlement of labour disputes, as required by the Labour Law, but it is not yet operational. In April 2009, the Social Council signed a memorandum on social partnership in view of addressing the impact of the global economic crisis. A working group for monitoring the economic crisis was established in June 2009 that can propose measures to the Social Council in case of severe disturbances on the labour market. Nevertheless, the role of social partners in the decision making process remains limited. Amendments to the Law on Strikes gave public servants the right to strike. Collective labour disputes are generally not solved by mutual agreement. Bipartite social dialogue needs to be further developed, in particular at national and sectoral levels.

As regards *social inclusion and anti-discrimination*, reliable data and comprehensive analyses are needed to provide a sound basis for social inclusion policies. Particular attention needs to be paid to territorial aspects of poverty. Fighting poverty and promoting social inclusion needs to be further prioritised. Several laws governing the rights and status of disabled persons have been adopted, but have yet to be implemented. As regards anti-discrimination, little progress can be noted on the adoption of a comprehensive anti-discrimination law. (See also point 2.2 *Human rights and the protection of minorities, section on social inclusion, anti-discrimination and equal opportunities*.)

As regards *social protection*, the Law on Basic Social Benefits was amended and the Law on Pension and Invalid Insurance was adopted. Implementation of the strategies for social and child protection, for social protection for the elderly and for the inclusion of disabled persons in Montenegro together with the related action plan for 2008 and 2009 remains slow.

In the field of **employment policy**, a small decrease in unemployment was reported by the Employment Agency despite the contracting demand resulting from the crisis. The two large activation programmes implemented early 2009 have contributed to counteract the impact of the crisis on unemployment. Their longer term impact needs to be carefully monitored. Structural unemployment, uneven regional employment, undeclared work and skills mismatches are still problems that are insufficiently addressed. The Employment Agency produces unemployment statistics and the National Statistical Office (MONSTAT) conducts the labour force survey in line with the relevant legislation. The Ministry of Health, Labour and Social Welfare has been divided into the Ministry of Health and the Ministry of Labour and Social Welfare.

In the area of **public health policy**, laws were adopted on emergencies, health inspection, drug abuse, health-related databases and health inspections. Strategies on fighting chronic non-contagious diseases and managing medical waste were put in place.

However, currently the healthcare system does not meet the needs of the population. Further efforts are needed to reform primary health centres, improve health service quality and patient safety and provide equal access to healthcare. Legislation concerning human blood and tissues and cells quality and safety, tobacco control and reporting of communicable diseases is not yet fully aligned with European standards and has not yet been implemented. Guidelines for implementation and action plans still need to be developed. There are still significant gaps with regard to communicable diseases (an early warning and response system is not yet in place). Cancer screening is currently not organised, traceability of human blood and tissues and cells quality and safety is lacking and the blood transfusion system needs to be reformed. The budget for health policy remains very limited.

In the field of mental health, further efforts are needed to create community-based services as an alternative to institutionalised healthcare, together with specific healthcare for children and young people with mental health problems. Adequate financial resources and trained healthcare personnel are needed to improve the quality of health services in this area.

*Overall*, Montenegro has continued to address its priorities in the area of employment and social policies. However, compliance with European standards needs to be further improved and the country's capacity to implement the new legislation effectively needs to be enhanced. With the exception of labour market analysis, more reliable statistics for social policies are needed as a basis for further intervention. Further efforts are also required to strengthen administrative and institutional capacity in the area of public health.

#### *4.1.9. Education and research*

As regards access to **education**, primary and secondary school enrolment rates remain high. Four new private universities have been established specialising in management of traffic and communications, humanities, information technology and international tourism and hotel management.

The Ministry for Education and Science has been reorganised and now employs 72 staff out of the 99 planned. The government adopted a strategy for the establishment of a Montenegrin qualification framework (MQN) for 2008-2010 and a strategy on introducing educational software in schools. In December 2008, a Law on National Professional Qualifications was adopted.

Further steps were taken to upgrade the quality assurance system for universities. A quality assurance system is now in operation at the University of Montenegro. The faculties of Business Management, of State and European Studies, and of Foreign Languages at the Mediterranean University have been re-accredited, while two other private universities are in the process of re-accreditation.

Future challenges in the field of education include finalising the establishment of the National Qualifications Framework, improving recognition of informal learning, strengthening the links between higher education and vocational training and the labour market.

In the field of culture, Montenegro has finalised talks for inclusion in the Community's Culture Programme as of 2010 and has established a cultural contact point to promote the programme and assist potential applicants.

As regards **research**, a special department dealing with science, research and technological development was established within the Ministry of Education and Science. Montenegro participated actively in the Seventh EC Framework Programme for research and technological development (FP7). It nominated observers for various programme committees and the European Strategy Forum on Research Infrastructure and managed its financial contribution. Information days on FP7 were organised in order to encourage participation and several cooperation projects are under way. Montenegro has also been very active in international cooperation in the Steering Platform for the Western Balkan countries. However, more efforts could be made to involve small and medium-sized enterprises and on Marie Curie projects.

Based on the strategy on scientific research activities for the period 2008-2016, Montenegro has taken a number of steps towards integration into the European Research Area, such as introduction of a young researcher programme.

*Overall*, further progress has been made in the fields of education and culture. There has been good progress on research, particularly on strengthening the institutional framework and on participation in FP7.

#### *4.1.10. WTO issues*

Montenegro's legislation has been brought in line with WTO requirements. The country concluded all its bilateral negotiations with working party members in 2008 and the country's accession conditions were agreed. However, Montenegro's accession to the WTO continues to be blocked by a Ukraine request for radical tariff reductions and wide-ranging commitments in access to services markets, including many sensitive sectors, which was only made in December 2008.

Efforts are required to strengthen the management and administrative capacity necessary for proper implementation of the commitments made to WTO members.

## **4.2. Sectoral Policies**

### *4.2.1. Industry and SMEs*

Some slight progress can be reported on **SME** policy. Montenegro remains committed to applying the European Charter for Small Enterprises. It is also a full member of the Entrepreneurship and Innovation Programme (EIP) under the Competitiveness and Innovation Framework Programme (CIP). A local consortium led by the European Information and

Innovation Centre joined the Enterprise Europe Network in November 2008. An interactive SME website came into operation at the beginning of 2009. It allows the introduction of online requests for removal of barriers.

Further legislative progress was made towards simplifying administrative procedures and shortening the time taken for reviewing technical documentation and issuing construction permits and certificates of occupancy. The law on craftsmanship was adopted in July 2009.

The network of nine business centres was expanded by adding two more, one in Plav the other in Kolasin. An IT business incubator has come into operation in Podgorica, with four businesses assisted up to now. A business start-up centre was established in Bar to support newly established SMEs in cooperation with local business and educational establishments.

However, the regulatory impact assessment for the new legislation has not yet been established. No progress was made in extending the silent-is-consent principle to other spheres of public administration apart from business registration.

The process of developing Montenegro's industrial strategy has not advanced and the administrative capacity for industrial policy remains weak. An operational plan for removal of business barriers for 2009 has not been adopted. No progress can be reported on establishment of a credit guarantee fund (CGF) for SMEs. No progress has been made on cluster policy. Implementation of the strategy for lifelong entrepreneurship learning for 2008-2013, which envisages introducing entrepreneurial learning as a key skill in primary and secondary schools, is at an early stage.

*Overall*, Montenegro has started to address its priorities in the area of industrial policy and has partly met them as regards SME policy. However, further efforts are required to remove barriers to business, especially at local level, including speeding up licences and permits and fully implementing measures such as a CGF, incubators and clusters.

#### *4.2.2. Agriculture and fisheries*

Some progress was achieved on **agriculture and rural development policy**. Laws on agriculture and rural development and on an agricultural census were adopted by the parliament in July 2009. Amendments to the Tobacco Law and to the Law on Fertilisers were also adopted. Montenegro ratified the International Plant Protection Convention in December 2008.

The government adopted a national programme for food production and rural development for the period 2009-2013. This builds on the strategy for food production and rural development and further aligns Montenegro's agricultural policy with the EU agricultural policy. The budget for agriculture and rural development was increased by 20% compared with 2008. A pilot census conducted in October 2008 successfully tested the instruments for the main agricultural census which was postponed to April 2010.

Direct support continued to be provided to the livestock sector in the form of headage payments. Different models for support for the plant production sector (modernisation of production of vegetables in greenhouses, direct support per hectare to seed-potato growers and certain cereal growers and production support for tobacco growers) also remained in place for several thousand beneficiaries, as did investment support for primary production.

A phytosanitary administration was established in the Ministry of Agriculture, Forestry and Water Management and experts to work on rural development issues were recruited. However, administrative capacity as regards rural development within the Ministry of Agriculture remains very limited and further upgrading is needed in order to start preparation for the IPARD framework. Staffing needs to be augmented.

In the area of **food safety, veterinary and phytosanitary policy**, adoption of implementing regulations improved legislative alignment with the *acquis* and the institutional framework. The phytosanitary administration came into operation and currently employs 18 staff out of the 28 planned. In accordance with the Law on Plant Variety Protection, a department for plant variety protection was established within the phytosanitary administration.

Regarding food safety, the government adopted implementing regulations on control of food of plant or animal origin and a residue monitoring programme. The Law on Ratification of the International Plant Protection Convention was adopted. The phytosanitary administration established a department for food safety.

The veterinary administration was restructured in November 2008 and a department for public health was established. In accordance with the Veterinary Law, the 2008 annual health protection programme was implemented and a programme for 2009 was adopted. The recently established veterinary administration continued to upgrade its administrative capacity and the veterinary diagnostic laboratory improved its equipment and staffing. Assessment of agri-food establishments for compliance with EU requirements has started.

The government adopted a national strategic plan for the **fisheries** sector for 2009-2013 which sets objectives for the development of aquaculture and marine fisheries, including scientific assessment of fish stocks. The number of staff responsible for fisheries in the Ministry of Agriculture has been increased. A draft Law on Marine Fisheries is before parliament.

*Overall*, some progress can be reported on the strengthening of the legal framework, however, implementation of legislation still needs to be enhanced. Further strengthening of the administrative capacity of bodies in charge of phytosanitary policy and food safety is required. An integrated food safety system still needs to be established. The administrative capacity of the Ministry of Agriculture, Forestry and Water Management, in particular as regards rural development, needs to be strengthened.

#### 4.2.3. *Environment*

Progress has been made as regards **horizontal legislation**. The government adopted a national environmental policy setting out national priorities and addressing cross-cutting issues, such as the need to bring gradually all environmental protection issues together under a single ministry. The decree on the amount of fees, the manner of calculation and payment of fees related to the pollution of the environment has been brought in line with the provisions of the Interim Agreement to the SAA (*See point 4.2.4 Transport Policy*). Alignment of the relevant environmental legislation with the *acquis* is moderately advanced. A national committee for approval of clean development mechanism projects was established. The Espoo Convention on Environmental Impact Assessment in a Transboundary Context and the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters were ratified. Further efforts are required on implementation and enforcement of legislation.

In the area of **air quality**, considerable work is under way, but little tangible progress has been achieved. Amendments to the Air Quality Law aiming to improve harmonisation with EU standards and a rulebook on air quality assessment are being developed, but alignment towards four directives on air quality, laying down the remaining definitions and air quality standards, needs to be finalised. Regarding air quality assessment, emission inventories need to be prepared. The national and local emission inventory for 2006 was updated in October 2008. Implementing legislation on air quality is also required. Gaps to be filled include identifying conglomerations and zones, establishing a monitoring programme and database and making data available to the public.

Limited progress has been made in the field of **waste management**. Financial and administrative limitations delayed implementation of the Waste Management Law from 1 November 2008 to 1 January 2010. Further work is required to develop the necessary by-laws. Implementation of the strategic plan for waste management continued. A regulation was published on the criteria, amount and method of payment of fees for waste management. Feasibility studies and environmental impact assessments on six regional sanitary landfill locations were finalised and projects are being designed. However, alignment with European standards needs considerable strengthening and acceleration, in particular concerning the landfill Directive and the waste shipments regulation.

Limited progress can be reported on **water quality**. A Law on Water Management and Financing was adopted. In spite of some progress, the degree of alignment to the Drinking Water Directive remains very low. Alignment with European standards needs to be improved substantially. Further efforts are required to improve implementation and enforcement.

Some progress can be reported in the field of **nature protection**. A Nature Protection Law established the legal framework for Natura 2000. Related by-laws have not yet been adopted. A number of international conventions and agreements were ratified, e.g. the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention), the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention), the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS), the European Landscape Convention and the Convention on the Protection of Underwater Cultural Heritage. A Law on Mountain Trails and amendments to the Law on National Parks were adopted. A decision on establishment of the Nature Protection Institute was adopted. Further awareness-raising efforts are needed in this field. Inspection measures and sanctions have not yet been adopted. The level of alignment has improved, but implementation and enforcement remain challenges. Preparations in this area are at an early stage.

Some progress can be reported on **industrial pollution control and risk management**, although there are no signs of transposition of the Mining Waste Directive. The Convention on Transboundary Effects of Industrial Accidents was ratified. Montenegro has aligned with almost all the relevant legislation, but implementation and enforcement remain challenges.

There was no progress in the areas of **chemicals** and **genetically modified organisms (GMOs)**. Implementation and enforcement in both fields remain weak. Preparations in these areas are at an early stage.

There was no progress on **noise** abatement.



Further efforts are needed to strengthen the **administrative capacity** of all institutions involved in environmental policy-making and enforcement.

Following establishment of the new government, responsibility for the environment and spatial planning was assigned to the new Ministry of the Environment and Spatial Planning. Previously it had been divided between the Ministry of Tourism and the Environment and the Ministry of Economic Development (spatial planning). This redistribution of powers did not affect the administrative capacity in these areas, which remains limited.

An Environmental Protection Agency (EPA), with a wide range of responsibilities in implementing and enforcing environmental legislation, was formally established by government decree. A director was appointed and an operating budget allocated for 2009. So far the EPA has employed 14 permanent staff out of the 60 or so planned. In particular, environmental impact assessment (EIA) need to be properly carried out by the EPA whenever legally required and in proper coordination between all relevant authorities, including in cases (such as small-scale energy projects or in connection with the implementation of the spatial plan) where a local authority issues the permit and decides on the scope and final approval of EIA. Proper inspections need to be made possible at all levels, central and local. The limited resources of the EPA raise serious concerns about the ability of the new agency to perform its functions.

The sharing of responsibility for the water sector between the Ministry of the Environment and Spatial Planning and other ministries must be clarified. Coordination between the bodies involved in environmental protection issues, particularly in inspection activities, needs to be improved. There has been a considerable increase in the number of inspections conducted by the ecological inspectorate. However, the lack of implementation capacity at local level and poor coordination between central and local government are continuing to limit enforcement capacity. Further upgrading of the administrative capacity of the ecological inspectorate is necessary.

The government established 'Project Consulting' (PROCON), a company in charge of managing projects in the field of communal services and environmental protection, primarily providing related logistical support to municipalities.

*Overall*, Montenegro has made some progress on legislative alignment with European standards. However, implementation and enforcement need to be further strengthened. Particular attention needs to be paid to strengthen administrative capacity and to establish effective inspection services. Work on awareness-raising on environmental protection issues needs to be continued. Environmental protection, in particular in coastal areas and national parks, remains a cause for concern.

#### *4.2.4. Transport policy*

In the field of **trans-European transport networks**, Montenegro has continued to actively participate in the implementation of the 2004 Memorandum of Understanding on the development of the South East Europe Core Regional Transport Network, and in the South East Europe Transport Observatory (SEETO) particularly by updating and implementing the Multi-annual Plan 2009-2013. Continued cooperation in the framework of SEETO and further improvement in the quality of the existing road and rail infrastructure are needed.

On **road transport**, Montenegro continued to allow unrestricted Community transit traffic through its territory. The decree amending the amount of fees, the manner of calculation and payment of fees related to the pollution of the environment, so called "Eco-tax", has been brought in line with the Interim Agreement to the SAA. The amendment ensures eco-tax proportionality for foreign heavy goods vehicles entering Montenegro territory. However, proportionality of the same tax applying to other EU vehicles coming to Montenegro and not covered by the Interim Agreement remains a concern. Amendments to the Law on Road Traffic Safety were adopted. In January 2009 Montenegro became a member of INTERBUS. Progress in the road haulier sector was limited both on adoption and on implementation of harmonised legislation. The Law on Contracts for Carriage by Road was adopted by parliament. The Law on Digital Tachographs remains to be drafted. The draft strategy to improve road traffic safety has yet to be adopted. The traffic safety situation remains unsatisfactory and additional prevention measures are necessary.

In the field of **rail transport**, unbundling of the railway company into an infrastructure company (Montenegrin Railway Infrastructure) and an operator (Railway Transport of Montenegro) was followed by establishment of the commissions for privatisation of the newly established companies. A border-crossing agreement was concluded with Serbia in March 2009, but it appears not to be in line with EU open access provisions (*See point 4.1.4 Customs and taxation*). However, no progress was reported on implementation of rail safety rules. The Railway Directorate which under the new government regulations, will take over responsibility for the rail transport department from the Transport Directorate has not yet been set up.

In the field of **maritime transport**, there is limited progress to report. Restructuring of the national port at Bar through privatisation was launched. The port was divided into five limited liability companies. Privatisation will be implemented in two phases. The first phase, putting out to tender the Marina Bar port authority, started. The new regulator, the Port Administration provided for by the Law on Ports, has not yet been set up. On safety issues, the rate of detention of Montenegrin vessels in the area covered by the Paris memorandum of understanding reached an appalling 33% in 2008, indicating clear flag State insufficiencies that need to be addressed. Security issues also require particular attention.

There are no developments to report in the fields of **inland waterways** and **combined transport**.

Concerning **air transport**, alignment of national legislation on aviation with the *acquis* progressed. The 2008 Law on Civil Aviation came into force with effect from February 2009. Bilateral air services agreements have been signed with the former Yugoslav Republic of Macedonia and initialled with Croatia and Switzerland. However, the Law on Civil Aviation needs to be amended in line with the recommendations made in the 2008 ECAA assessment report to ensure compliance with the European Common Aviation Area (ECAA) Agreement. A civil aviation safety committee has still not been established and this is preventing implementation of a civil aviation safety programme. The Montreal Convention has yet to be ratified and Montenegro has not yet become a full member of the European Joint Aviation Authorities (JAA). Relations with the European Aviation Safety Agency (EASA) have been put on a formal footing by a working arrangement signed on 7 July 2009. The administrative capacity of the relevant authorities is not yet up to the standards for proper enforcement of the aviation *acquis*. Despite Montenegro serious engagement in the recent set up of air traffic national bodies, staff available is limited. Additional efforts are necessary to ensure the appropriate level of alignment with European standards. Montenegro's participation in the

Single European Sky Committee and in the Implementation of the Single European Sky in South Eastern Europe (ISIS) Programme will be beneficial in this regard.

*Overall*, Montenegro's preparations are moderately advanced in the cases of road and rail transport, but still at an early stage for air and maritime transport. Progress on safety aspects and a systemic approach to development of transport is still limited. Considerable efforts are required to establish adequate administrative capacity and implement the *acquis*.

#### 4.2.5. Energy

Regarding **security of supply**, the new Energy Law remains to be adopted. It will address oil stocks, security of electricity and gas supply and cogeneration.

Regarding the **internal energy market**, in line with the national energy development strategy, an action plan for the period 2008-2012 was adopted in October 2008. It reflects the general objectives of the EU's energy policy. The electricity market was opened for all non-household consumers with effect from 1 January 2009. The regulator has adopted rules on qualified buyers of electricity, on designation of the public electricity supplier and on approval of market rules.

Progress on restructuring the State electricity company (EPCG) has continued. Following the decision to unbundle EPCG, five daughter companies were established. The Company Law was amended to allow unbundling of transmission and the setting-up of a transmission company and a holding company – EPCG AD. Four of the five daughter companies, dealing with generation, supply, distribution and construction, remain part of the holding company. The transmission joint stock company was fully unbundled in April 2009. EPCG AD is being partly privatised by means of a capital increase and sale of 18.3% of its shares to Italian power company A2A. In the next stage, the plan is to turn the four remaining companies into independent joint stock companies. Restructuring is due to be completed by the end of 2009.

Decisions to award eight concessions to build and operate small hydroelectricity plants were adopted. A decision determining feed-in tariffs from small hydroelectricity plants was adopted.

Preparation are being made for putting out to tender construction of large hydroelectricity plants, based on a concession.

There has been little tangible progress in relation to **renewable energy**.

Several programmes and awareness-raising campaigns to promote **energy efficiency** were conducted as part of the Montenegrin Year of Energy Efficiency. The adoption of the Law on Energy Efficiency remains hereby of key importance.

A Law on **Nuclear Safety and Radiation Protection** has been adopted in August 2009. Within the Environmental Protection Agency a regulatory body responsible for protection against ionising radiation was established. However, alignment with the *acquis* would require improvement of the regulatory infrastructure and enhancement of its technical capacity. The existence of hundreds of radioactive lightning rods spread all over the country still constitutes a radiological thread that needs to be addressed.

*Overall*, some progress can be reported in some energy sectors. Steps have been taken towards meeting the requirements of the Energy Community Treaty, such as the opening of

the electricity market for non-household consumers, but further efforts are required. Promoting energy efficiency and renewable energy sources is crucial.

#### 4.2.6. *Information society and media*

Some progress has been made on **electronic communications and information technologies**. The liberalisation of the sector has continued. Even though narrowband is still predominant for connecting to the internet, as of January 2009 the broadband penetration rate was 5.5% and alternative operators held around 20% of this important growth market. The mobile penetration rate was 184%.

The Agency for Electronic Communications and Postal Services (EKIP), established by the Law on Electronic Communications, has come into operation. Its statutes, work programme and operational and financial plans were adopted. The agency increased its human resources. Rulebooks on the annual fees for numbers and addresses and on use of radio frequencies have been adopted. Rules on (higher) annual fees for numbers and addresses as well as for the use of frequencies were adopted. So far no comprehensive market analysis has been performed by EKIP. However, the Law on Electronic Communications defines significant market power (SMP) operators in its transition articles and accordingly new licences were issued to these operators. In 2009 EKIP launched the market analysis and designation of operators holding SMP process.

However, implementation of the Law on Electronic Communications was delayed by the late nomination of the new board and the executive director of the Electronic Communications Agency. The procedure for appointing the members of the board remains a cause for concern regarding their independence. The late establishment of the agency delayed adoption of implementing legislation, including rulebooks on number portability and local loop unbundling. The administrative capacity of the department for telecommunications policy in the Ministry of Transport, Maritime Affairs and Telecommunications remains weak.

There has been no progress towards enhancing consumer protection.

There have been further developments regarding **information society services**. A new Ministry for the Information Society was established on 3 January and turned into the Ministry for Economic Policy and the Information Society with the formation of the new government in June 2009. It is responsible for information and communication technology initiatives in all government bodies. An information society strategy for 2009-2013 was adopted in February 2009. Laws on personal data protection and on personal names were adopted. However, the Conditional Access Directive has not yet been transposed. Human resources at the Ministry for Economic Policy and the Information Society are still weak. Electronic signature legislation is in the process of implementation.

In the area of **audiovisual policy and the media**, a Law on Public Service Broadcasting was adopted in December 2008. It abolished the steering committee of Radio Television Montenegro (RTCG) and transferred its powers to the RTCG Council, which has nine members appointed by parliament. However, the political independence of the public service broadcaster has to be ensured. Licence fees for radio and television were abolished. RTCG is now financed from the State budget. It receives 1.2% of the annual budget. This provides the public broadcaster with stable financial resources.

The responsibilities of the Agency for Electronic Communications and of the Broadcasting Agency under the Law on Electronic Communications regarding frequency licensing remain unclear. A disagreement between the two agencies regarding their competences contributed to delays in allocating a frequency to a private TV station.

*Overall*, some progress has been made regarding the information society and the media. However, progress in this sector has been hindered by the late implementation of the Law on Electronic Communications. Concerns remain about the independence of the Electronic Communications Agency. Disagreements on responsibility for frequency licensing are giving rise to concern and related competences and procedures require urgent clarification. Further strengthening of the legislation and related implementing regulations is needed. Greater focus needs to be put on implementing the national information society strategy. The effectiveness and independence of the public service broadcaster need to be ensured.

#### *4.2.7. Financial control*

Some progress can be reported in the area of **public internal financial control** (PIFC), in line with Montenegro's PIFC policy paper. The Law on PIFC was adopted in November 2008, followed by implementing legislation focusing on financial management and control (FMC) systems and internal audits (IA) in the public sector. A Central Harmonisation Unit for both FMC and IA is in place and internal audit units are being set up in line ministries. Further efforts are required, however, to draft new and align existing implementing legislation. Considerable awareness-raising at all levels of the administration and training remain necessary.

In the area of **external audits**, progress can be reported. The numbers of qualified State auditors and of audits undertaken are increasing. The State Audit Institution is steadily developing its administrative capacity to ensure efficient external audit. Parliament adopted the institution's annual report for the period from October 2007 to October 2008, accepting all the proposed conclusions.

*Overall*, Montenegro's preparations in the fields of PIFC and external audit are at an early stage.

#### *4.2.8. Statistics*

There has been some progress on **statistical infrastructure**. The government adopted a development strategy for statistics for 2009-2012. The new strategy gives the Statistical Office of Montenegro (MONSTAT) the coordinating role for developing a statistical system in compliance with the European Statistics Code of Practice. However, an action plan and financial resources for implementing the strategy are still not available. The Statistical Law needs to be revised to match the objectives of the strategy.

Currently MONSTAT employs 135 people, out of 203 posts allocated by the organisation chart adopted in April 2008. The process of filling the new posts has been constrained by the lack of office space. Management capacity remains relatively weak, with three positions for assistant directors vacant for a whole year. Retaining skilled staff remains a problem.

Some progress was made on data dissemination policy. A release calendar for 2009 was published on MONSTAT's website in December 2008. A multiannual statistical work programme for 2009-2013 was adopted, providing the basis for the annual plans. Efforts are

required to implement the annual plans effectively. A memorandum of understanding remains to be signed with the Central Bank to ensure provision of timely and high-quality statistics, particularly in relation to GDP in accordance with ESA 95, the European System of Accounts.

Progress in the field of **classifications and registers** has been limited.

As regards **sector statistics**, progress can be reported. MONSTAT conducted the pilot population and housing census in June 2009. The pilot agricultural census was conducted in 2008 and the agricultural census law was adopted in July 2009. The preparations for the agricultural census in April 2010 are well advanced. Some progress has been made on business statistics, but generally the availability of business statistics, especially short-term statistics, needs to be improved. Efforts are still needed to ensure that the 2011 population and housing census is carried out in a timely manner in line with EU standards. As regards macroeconomic statistics, cooperation with the customs administration has improved, leading to better timeliness and quality in the monthly external trade statistics. The consumer price index is now published monthly. Compliance with ESA 95 has progressed, but much remains to be done. MONSTAT still does not produce quarterly national accounts. The quality and timeliness of data need to be improved; annual national accounts should be published by September, in line with EU standards. Transmission of trade data to Eurostat needs to be improved.

*Overall*, some progress can be reported in the area of statistics and Montenegro has started to address its targets. However, its administrative capacity remains weak and the legislative framework needs to be further improved and completed. Substantial efforts remain necessary in all areas in order to improve compliance with EU standards.

### **4.3. Justice, freedom and security**

#### *4.3.1. Visa, bordermanagement, asylum and migration*

Good progress has been made in the area of **visa policy** and in the wider framework of the visa liberalisation dialogue. In particular, Montenegro has taken important steps towards the benchmarks set in the road map for visa liberalisation and met the majority of them, allowing the Commission to include Montenegro in its proposal of July 2009 for visa free travel. Montenegro has established sound procedures for applying for and issuing travel documents, supported by suitable technology and equipment. By September 2009, it has issued 122,190 new biometric passports in line with EU and international standards. Replacement of old-style travel documents by new biometric passports is expected to be completed by the end of 2009. The Law on Foreigners entered into force in January 2009. A new Visa Regulation, based on the Schengen rules, entered into force in March 2009. The visa policy is not yet fully in line with European standards. Montenegro still has limited capacity for issuing visas in the Ministry of Foreign Affairs and at its few diplomatic and consular missions. There is no electronic database or other IT system linking consular offices issuing visas with the Foreign Ministry. Processing applications on paper hinders effective control of applicants, in particular when visas are issued at border crossing points. The sector for migration, visas and readmission in the Ministry of the Interior and Public Administration needs to be reinforced in terms of both expertise and human resources. Montenegro has started to address its priorities in the area of visa policy, but further work is required. As regards **border management**, Montenegro made progress. It has continued to implement its integrated border management (IBM) strategy and the associated action plan. Cross-border cooperation is working well under both formal and informal arrangements. The border police carry out regular joint

patrols with the Albanian border police and the Croatian police. Reconstruction of the Bozaj border crossing point (BCP) was completed and work has started on reconstruction of the Dobrakovo BCP. The Sukobin-Muriqan joint BCP with Albania was opened in June 2009. There has been some improvement in the equipment at BCPs, although the availability of integrated passport readers remains limited and there are no devices for taking fingerprints.

At the end of 2008 a memorandum of understanding on cooperation on IBM, was signed between the Ministry of the Interior and Public Administration, the Police Directorate, the Customs Directorate, the Veterinary Directorate and the phytosanitary administration. A working arrangement with FRONTEX was signed in June 2009. Five additional border crossing points were connected to the Police Directorate's central database and have access to the Interpol database.

However, new legislation on State border control, including border surveillance, and related implementing legislation which will ensure further alignment with the Schengen *acquis* have yet to be adopted. The border demarcation with Serbia and Kosovo is still pending. Surveillance systems are lacking at both the blue and green borders and the equipment used for border checks is not yet adequate. A basic training curriculum for border police needs to be established. Further development of specialised and advanced training for experienced border police staff (with special reference to intelligence personnel) is needed in order to boost the capacity to prevent and detect cross-border crimes. Inter-agency cooperation on border management requires further improvement by establishing a national coordination unit or multi-agency information centre, in particular to allow on-line sharing of information between institutions for their day-to-day work. Progress can be reported in relation to establishment of a risk analysis system. However, more trained intelligence officers are required at all levels. Linking all border crossing points into a network with online access to the national database and to the Interpol database must be addressed as a priority.

*Overall*, Montenegro has made good progress on addressing priorities in the area of border management but needs to maintain the pace of reforms.

Limited progress has been made in the area of **asylum**, although the legislative and institutional frameworks are almost complete. The Law on Asylum provides a broad spectrum of rights. There are very limited numbers of asylum-seekers in Montenegro: in 2008 there were seven and to date in 2009 there have been 13.

In practice, asylum-seekers and recognised refugees face certain obstacles, including difficult access to the labour market. The mixed judicial/administrative nature of the State Asylum Appeal Commission needs to be clarified. The law provides for no judicial recourse against its decisions. Its staff requires training on asylum issues. Construction of the planned reception centre for asylum-seekers has not yet begun. Currently accommodation for asylum-seekers is provided by the bureau for the care of refugees. Proper implementation of the asylum legislation needs to be ensured, including due examination of asylum applications and provision of judicial review in the event of refusal.

*Overall*, Montenegro has started to address priorities in the area of asylum. However, further efforts are needed on implementation of legislation.

Some progress has been made on **migration**. The Law on Foreigners and the Law on Employment and Work of Foreigners have been in force since January 2009. The Law on Foreigners broadly reflects the principles laid down in the Directive on common standards

and procedures for returning illegally staying third-country nationals. A number of implementing laws related to the Law on Foreigners need to be adopted. The border police department for foreigners and fighting illegal migration and the Ministry of the Interior's department for migration, visas and readmission deal with migration issues. The strategy for integrated migration management for 2008-2013 and the action plan for 2008-2009 were adopted in November 2008. A council for monitoring implementation of the strategy has been established. No problems have been observed with implementation of the readmission agreement between Montenegro and the European Community. At the end of 2008 Albania, Bosnia and Herzegovina, Croatia, Montenegro, the former Yugoslav Republic of Macedonia and Serbia signed a memorandum of understanding on setting up a system for sharing statistical data on illegal migration and participating in the regional system of advance notification.

However, the human resources and specialist knowledge on migration issues within the Ministry of the Interior need to be strengthened. Cooperation with other public institutions, in particular with the Employment Office, on unlawful employment of migrants remains weak. Integration of migrants and reintegration of Montenegrin nationals readmitted under readmission agreements have not yet been sufficiently addressed. Further progress is needed on collection of data on migration. Detention facilities for those foreign nationals who illegally overstay are not yet adequate.

Montenegro needs to ensure effective implementation of the legal framework aimed at resolving the status of displaced persons from Bosnia Herzegovina and Croatia and resolve the status of displaced persons from Kosovo.

*Overall*, there has been good progress in the area of migration. Further efforts are needed on implementation of legislation and enhancement of administrative capacity and institutional cooperation. The issue of internally displaced persons needs to be resolved.

#### *4.3.2. Money laundering*

Some progress has been achieved in the fight against money-laundering. Legislation implementing the Law on the Prevention of Money-Laundering and Terrorist Financing was adopted in December 2008. These two regulations put in place rules and procedures for reporting cash transactions over €15,000 and suspicious transactions and for organising data-keeping, data protection, compliance officers' professional training and internal control within the entities reporting to the anti-money-laundering administration. In March 2009, one further piece of implementing legislation was adopted on drafting guidelines for risk analysis for the purpose of preventing money laundering and terrorism financing. Police and prosecutors have received training on identification and detection of money-laundering and confiscation of criminal assets.

The directorate for prevention of money-laundering and terrorism financing is maintaining databases on suspicious transactions, cash transactions over a given threshold and court-registered real estate sales contracts. Analysts from the directorate also have access to statistical reports on deposits and withdrawals and on investors in capital markets. However, the Directorate lacks an important software database (IBASE), which would facilitate national and international cooperation and exchange of data with law enforcement agencies. It currently employs 25 staff of the foreseen 34 posts. A reporting entities register makes it possible to monitor reporting trends. The scope of reporting entities has been extended but the number of suspicious transactions reported decreased over 2008.



The requirements for identification of beneficial owners by the reporting entities, especially by casinos and estate agencies, have been tightened up and one report of a suspicious transaction has already been received from an estate agency.

However, Montenegro's effectiveness in fighting money-laundering needs to be enhanced. Its legislation is not yet fully in line with the UN Convention against Transnational Organised Crime and the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. A quarter of the anti-money-laundering administration's posts have not been filled; staff turnover is high and remuneration low. The statistics produced are not yet reliable. A clear set of management statistics needs to be agreed so that the appropriate data are collected on a routine basis.

During 2008 only one report of a suspicious transaction was made by a money service bureau and none by lawyers or notaries. Tighter control needs to be exercised over funds invested in real estate. Only five of the eleven commercial banks in total submitted STRs in 2008 and 2009 and about half of all STRs originate from two banks. Reporting entities' understanding of their obligations to report to the anti-money-laundering administration needs to be improved, as does supervision of compliance by reporting entities. This calls for greater capacity in the anti-money-laundering administration.

The March 2007 list of indicators for identifying suspicious customers and transactions needs to be updated. The capacity for a risk-based approach to dealing with suspicious transactions reported to the anti-money-laundering administration and the resulting implementation record remain weak. The necessary guidelines are not yet in place. Analysts with the necessary training are needed for the directorate.

The capacity of the police and the prosecution service to investigate cases of money-laundering remains insufficient. Only a small, though increasing number of money-laundering cases were forwarded to the prosecution service by the police. The prosecution service still lacks expertise in this field. In 2008 three financial investigations were conducted by the police in cooperation with the special prosecutor for fighting organised crime. There is a need to strengthen the human resources further, along with the expertise and technical capacity of the police and prosecutors, particularly for financial investigations. Between September 2008 and August 2009 there was no conviction on money-laundering.

The capacity for conducting financial investigations and awareness of their importance in the anti-money-laundering administration, the police and the prosecution service needs to be improved. More effective inter-agency cooperation is necessary to reduce bureaucracy and ensure regular feedback on investigations. This will require, amongst other things, revision of the current memoranda on cooperation between the anti-money-laundering administration, the police and the prosecutor's office.

*Overall*, Montenegro has continued to address its priorities, but money-laundering remains a serious problem linked to organised crime and corruption. Clear determination to prevent and combat money-laundering is needed. The fall in the number of investigations and of reports of suspicious transactions and the fact that there were no convictions for money-laundering are causes for concern.

#### 4.3.3. *Drugs*

Montenegro has made some progress in the fight against drugs. The national strategic response to narcotics and the associated action plan are being implemented under the coordination of a new National Drugs Office. For the first time a survey on the use of alcohol, tobacco and drugs was conducted in line with the EU method. Preventive activities have continued. Police and customs officers have received training on control of precursors and smuggling of drugs. A drug manual has been distributed to border police officers. There was an upward trend in seizures of most types of drugs during the reporting period. International cooperation on law enforcement in drug cases has improved.

However, a Law on Precursors has not still been adopted. Montenegro remains a key link on the transit routes for drugs. Domestic drug consumption is increasing. The capacity of the police to fight drug-related crime continues to be insufficient. The police department responsible for combating drug-related crime is still not properly staffed and equipped. Instruments such as witness protection and under-cover agents are infrequently used, partly due to the inherent difficulty of using such tools in a very small, socially tightly-knit country. The National Drug Office has become operational but is understaffed. The planned national information unit on drugs, which will be responsible for collecting and documenting information on drug addicts, has yet to be established. Problems persist with prevention of drug addiction and with treatment and rehabilitation of addicts. Inter-agency and international cooperation on law enforcement needs to be strengthened.

*Overall*, Montenegro has started to address its main priorities, but further action is needed. The institutional framework for fighting drug-related crime has been reinforced and seizure levels have increased. However, drug trafficking, in particular by groups engaged in organised crime, remains a serious cause for concern. Drug abuse is continuing to rise and there is still a lack of reliable statistics.

#### 4.3.4. *Police*

Some progress was made in the area of policing and police reform over the reporting period. The internal reorganisation continued. Staff has been receiving extensive training. The Police Academy continued to build its capacity for general and specialised training for various levels of staff, including specialised training for criminal and border police. A track record is being established in the area of internal control. Disciplinary measures have been imposed on 124 police officers while from February to July 2009, criminal charges were brought against 27 police officers. Pilot implementation of intelligence-led policing has started in two regional police units – Bar and Budva, including the outpost of Ulcinj. A pilot project on community policing has also been successfully implemented in all regional police units. A modern forensic centre has started work. New equipment was provided to the police and new police uniforms were introduced.

The police have been actively participating in international police cooperation and a number of joint operations conducted. Under the Convention on Police Cooperation for South-East Europe (Vienna Convention), the Montenegrin police were involved in cross-border cooperation and exchanged intelligence with the police services of neighbouring countries.

However, the professional capacity of the police still needs to be improved, in particular as regards use of modern investigation and analysis techniques, the availability of basic infrastructure and equipment and a comprehensive IT network. Equipment and facilities need

to be upgraded, in particular for the organised crime department. Police staff specialising in the fight against organised crime need to remain focused on this field rather than diverted to other tasks. Operational effectiveness and security require that dissemination of intelligence and operational data need to be based on the 'need to know' principle rather than on hierarchical channels of communication.

Data maintenance rules and compilation of statistics in the Police Directorate need to be improved. The overall number of policemen remains high compared with crime rates. The police internal control unit needs to be further strengthened. The overall reform of the police needs to continue with the adoption of a new Law on the Police, taking into account the new Criminal Procedure Code and strengthening police integrity and understanding of the role of the police as a provider of services to the public. Control of access to weapons and explosives needs to be tightened up. The strategic cooperation agreement with Europol has been ratified in August 2009.

*Overall, police reform in Montenegro is moderately advanced.*

#### *4.3.5. Fighting organised crime and terrorism*

Some progress can be reported in the fight against **organised crime**. In February 2009 the second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters entered into force. The government adopted the fourth and fifth report on the action plan for implementation of the programme for fighting corruption and organised crime. Progress has been made on implementation across a large number of areas, although a considerable number of measures have been only partially implemented or not yet applied. The national commission on fighting organised crime and corruption and its tri-partite commission continued their activities on case monitoring and on harmonising statistics and methods of analysis.

The newly adopted Criminal Procedure Code considerably strengthens the legislative framework for fighting organised crime and corruption. The number of deputies and administrative staff in the special prosecutor's office for fighting organised crime, corruption, war crimes and terrorism was increased. The relevant departments in the two high courts have also been strengthened with the aid of specialised training. The number of investigations and indictments of organised crime cases increased and a higher number of final convictions were secured, including in a high-profile case concerning the murder of a journalist. The authorities have been actively participating in international judicial and police cooperation.

The Police Directorate's unit for fighting organised crime and corruption conducted six financial investigations in 2008 and brought six criminal charges. Three financial investigations were initiated between January and April 2009, of which one concerned an organised crime case. The investigative and operational capacity of the special verification unit responsible for collecting and analysing intelligence was further developed and the unit was equipped with new computers.

However, efforts are still needed to ensure effective implementation of delayed measures under the action plan for fighting organised crime and corruption. Future strategic priorities and activities need to be based on a thorough and comprehensive assessment of the real needs and threats related to organised crime and corruption, taking into account the resources available for implementation. The quality of statistics needs to be substantially improved in order to be able to track trends in organised crime and corruption. Coordination, at national

level, of international judicial cooperation needs to be formalised and improved. The working procedures, staff and technical equipment of the bodies in charge of international cooperation on law enforcement, in particular the international police cooperation unit, need to be further enhanced. If the legislative provisions allowing confiscation of criminal assets are to be effective, police and prosecutors need further training in financial investigations, so that they can trace criminal assets and present related evidence before the courts. The State Agency, which will have the task of dealing with confiscated criminal assets, was established in July 2009. Enhanced efforts are needed to ensure the necessary institutional and administrative capacity to make it operational.

The Police Directorate's organised crime unit is understaffed and has no staff at local level. The working conditions of this unit are inadequate and its professional skills need further upgrading, especially with regard to modern investigation techniques, including financial investigation, which is not yet perceived as one of the main tools for tackling organised crime, corruption and money-laundering.

The surveillance capability of the Police Directorate's special verification unit is insufficient to conduct investigations effectively, because of the shortage of skilled staff and some special equipment. Plans to develop a number of practical tools for law enforcement practitioners - such as a manual on application of special investigative techniques and a manual on intelligence-led policing - have still to be implemented. Training and expertise, particularly on financial investigative methods, need to be improved significantly, as do equipment and premises.

A cooperation agreement between the Police Directorate and the prosecutor's office was signed in June 2009. However, implementation of other planned measures, aimed at formalising the existing informal inter-agency cooperation and exchange of information, needs to continue. Operational cooperation between law enforcement agencies could be improved by the establishment of a national coordination unit allowing direct exchanges of information and intelligence between the police and the tax, customs and money-laundering administrations. To ensure greater efficiency, gradual development of the necessary expert skills and processing procedures is needed, together with production and systematic dissemination of intelligence and information which will support the full-time work of the unit.

During the reporting period, convictions in organised crime have increased. In order to attain better results, consistent use will have to be made of new legal tools, along with recruiting additional specialised police and prosecution staff, streamlining procedures, strengthening inter-agency cooperation and providing specialised training.

*Overall*, the institutional, legal and administrative capacity for fighting organised crime has been strengthened. The improvements to the legislation on criminal procedure are a major step in the right direction. However, the capacity of the police and judiciary to deal with such cases remains limited. The inefficiencies in prosecution, trial and sentencing of organised crime in Montenegro remain a serious cause for concern.

There has been good progress in the fight against the **trafficking of human beings**. Montenegro is continuing to be used primarily as a transit country. The 2009 action plan to implement the strategy to fight trafficking in human beings was adopted in December 2008. It includes measures against the trafficking of children. The Council of Europe Convention on Trafficking of Human Beings entered into force in November 2008. Facilities are in place to

support and protect victims of trafficking. Shelters and victim assistance schemes are continuing to be run by NGOs and financed by the government. Their existing capacity is presently sufficient given the low number of victims of trafficking (four persons in 2007 and three in 2008). The office of the national coordinator on trafficking in human beings has carried out extensive work on prevention and public awareness-raising to combat trafficking. Specialised training has been provided to relevant institutions at national and local levels. Cases concerning trafficking in human beings have been investigated and concluded with convictions.

Further measures are necessary to enhance the capacity of the authorities to identify potential victims. The need for changes to the existing legislation on illegal migration will have to be examined from this angle.

*Overall*, Montenegro has advanced in the area of the fight against trafficking in human beings, though efforts need to continue.

Limited progress has been made on strengthening coordination between and the capacity of the law enforcement agencies for **fighting terrorism**. The special counter-terrorism unit within the Police Directorate received further training and contributed to police operations, for example by protecting persons and consignments of money. A national strategy against terrorism still needs to be adopted.

*Overall*, Montenegro's framework for fight against terrorism is at an early stage of preparation.

#### *4.3.6. Protection of personal data*

Some progress was achieved, in the form of adoption of the Law on Protection of Personal Data at the end of 2008. The Law entered into force but changes to the legislation as aiming at ensuring the independence of the supervisory authority have not yet been adopted. The President and members of the Council of the authority were not appointed within the time frame set out by the law.

Personal data protection has not yet substantially improved. Montenegro still needs to harmonise its data protection legislation fully with the EU *acquis*. The newly adopted law does not give sufficient independence to the supervisory authority. The supervisory authority and the necessary information systems are not yet in place. Other legislation also needs to be aligned with the Law on Personal Data Protection. The public administration needs to be trained on its new obligations regarding personal data protection.

*Overall*, Montenegro has started to address some of its priorities in this area.

## STATISTICAL ANNEX

### STATISTICAL DATA (as of 14 September 2009) Montenegro

Basic data	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Population (thousand)		610	612	615	617	619	621	623	624	625	627
Total area of the country (km <sup>2</sup> )		13 812	13 812	13 812	13 812	13 812	13 812	13 812	13 812	13 812	13 812

National accounts	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Gross domestic product (GDP) (million national currency)		:	:	:	:	:	:	:	:	:	:
GDP (million euro)		:	1 066	1 295	1 360	1 510	1 670	1 815	2 149p	2 808p	:
GDP (euro per capita)	1)	:	1 750	2 113	2 208	2 435	2 684	2 912	3 443p	4 484p	:
GDP (in Purchasing Power Standards (PPS) per capita)		:	:	:	:	:	:	:	:	:	:
SI: GDP (in PPS per capita, EU-27=100)		:	:	:	:	:	:	31.0	35.0	41.0	:
SI: Growth rate of GDP (national currency, at constant prices, % change on previous year)		:	:	1.1	1.9	2.5	4.4	4.2	8.6p	10.7p	:
SI: Employment growth (national accounts, % change on previous year)		:	:	:	-19.9e	-8.9e	2.7e	-11.4e	-5.0e	11.7e	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	:	:	21.8	11.4	1.7	15.6	13.6	-1.0	:
SI: Unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:
SI: Labour productivity (GDP in PPS per person employed, EU-27=100)		:	:	:	:	:	:	:	:	:	:
Gross value added by main sectors (%)											
Agriculture		:	12.4	11.9	12.2	11.6	10.9	10.4	10.1p	8.5p	:
Industry		:	19.2	20.7	20.0	19.2	18.7	17.1	16.0p	13.6p	:
Construction		:	4.3	3.9	4.0	3.4	3.5	3.6	4.3p	4.2p	:
Services		:	64.1	63.4	63.8	65.8	66.9	68.9	69.5p	73.7p	:
Final consumption expenditure, as a share of GDP (%)		:	91.9	100.2	105.8	101.0	99.4	99.8	104.2p	104.5p	:
Gross fixed capital formation, as a share of GDP (%)		:	16.9	17.5	14.6	13.3	17.0	18.0	21.9p	24.3p	:
Changes in inventories, as a share of GDP (%)		:	5.5	5.9	4.1	2.1	-0.4	-0.3	3.6p	3.7p	:
Exports of goods and services, relative to GDP (%)		:	36.8	38.4	35.4	30.6	42.0	43.6	49.4p	46.5p	:
Imports of goods and services, relative to GDP (%)		:	51.1	62.0	59.9	47.0	58.1	61.1	79.1p	79.0p	:

Industry	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Industrial production volume index (2000=100)		96.0	100.0b	99.0	100.0	102.0	116.0	114.0	115.0	115.0	113.0

Inflation rate	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
SI: Consumer price index (CPI), (total, % change on previous year)		:	:	:	:	:	:	:	:	:	7.4

Balance of payments	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Balance of payments: current account total (million euro)		:	:	:	-175	-102	-120	-154	-531	-643	-1 006
Balance of payments current account: trade balance (million euro)		:	:	:	-433	-359	-416	-514	-849	-1 159	-1 490

Balance of payments current account: net services (million euro)		:	:	:	100	112	148	196	197	440	403
Balance of payments current account: net income (million euro)		:	:	:	76	88	86	18	31	17	8
Balance of payments current account: net current transfers (million euro)		:	:	:	83	58	62	147	90	59	73
of which government transfers (million euro)		:	:	:	:	:	:	6	7	2	9
Net foreign direct investment (FDI) (million euro)		:	:	:	76	39	51	381	467	525	568
Foreign direct investment (FDI) abroad (million euro)		:	:	:	0	-5	-2	-4	-26	-115	-74
of which FDI of the reporting economy in EU-27 countries (million euro)		:	:	:	0	0	-1	-3	-78	-71	-58
Foreign direct investment (FDI) in the reporting economy (million euro)		:	:	:	76	44	53	384	493	640	641
of which FDI of EU-27 countries in the reporting economy (million euro)		:	:	:	69	16	36	318	376	515	447

<b>Public finance</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
General government deficit/surplus, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:
SI: General government debt, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:

<b>Financial indicators</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Gross foreign debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:
Gross foreign debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	2)	:	:	:	:	285	291	351	484	592	512
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	3)	:	:	:	:	403	437	615	1 099	1 557	1 209
Money supply: M3 (M2 plus marketable instruments, million euro)	4)	:	:	:	:	494	547	867	1 587	2 728	2 339
Total credit by monetary financial institutions to residents (consolidated) (million euro)		:	:	:	125	199	279	374	843	2 213	2 726
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:	:	:	:	:
Lending interest rate (one year), per annum (%)		:	:	:	:	:	:	:	:	:	:
Deposit interest rate (one year), per annum (%)		:	:	:	:	:	:	:	:	:	:
euro exchange rates: average of period - 1 euro = ... national currency	5)	:	:	:	:	1.000	1.000	1.000	1.000	1.000	1.000
Effective exchange rate index (2000=100)		:	:	:	:	:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		:	:	:	55	50	60	173	329	512	360

<b>External trade</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Value of imports: all goods, all partners (million euro)		:	:	:	:	:	:	974	1 483	2 073	2 527
Value of exports: all goods, all partners (million euro)		:	:	:	:	:	:	461	627	487	433
Trade balance: all goods, all partners (million euro)		:	:	:	:	:	:	-514	-855	-1 585	-2 094
Terms of trade (export price index / import price index, 1998=100)		:	:	:	:	:	:	:	:	:	:
Share of exports to EU-27 countries in value of total exports (%)		:	:	:	:	:	:	53.5	62.2	65.6	61.3
Share of imports from EU-27 countries in value of total imports (%)		:	:	:	:	:	:	45.3	45.4	41.3	41.1

<b>Demography</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		5.6	6.1	5.5	4.8	4.3	3.4	2.4	2.5	3.0	:
Infant mortality rate: deaths of children under one year of age per 1000 live births		13.4	11.1	14.6	10.8	11.0	7.8	9.5	11.0	7.4	7.5

Life expectancy at birth: male (years)		70.7	71.1	71.4	70.9	70.4	71.0	70.4	70.7	71.2	71.2
Life expectancy at birth: female (years)		76.1	76.3	76.5	75.7	74.9	75.3	74.9	74.8	76.1	76.1

<b>Labour market</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Economic activity rate (15-64): share of population aged 15-64 that is economically active (%)	6)	58.5	60.4	57.1	59.1	58.9	51.7b	49.9	49.0	53.0	51.9
SI: Employment rate (15-64): share of population aged 15-64 that is in employment (%)	6)	39.2	38.5	37.1	37.7	36.2	37.4b	41.0	41.0	43.0	43.2
Share of male population aged 15-64 that is in employment (%)	6)	47.3	46.2	45.6	46.6	44.5	46.5b	42.4	41.0	48.0	50.8
Share of female population aged 15-64 that is in employment (%)	6)	31.4	30.6	29.0	29.0	28.1	28.8b	27.6	29.0	37.0	36.1
SI: Employment rate of older workers (55-64): share of population aged 55-64 that is in employment (%)		:	:	:	:	:	:	:	:	:	:
Employment by main sectors (%)											
Agriculture	7)	2.6	3.4	3.1	3.0	1.8	10.9b	8.6	6.8	8.1	7.6
Industry	7)	22.5	22.4	25.8	26.0	25.7	16.5b	16.3	14.8	13.8	15.3
Construction	7)	3.0	3.5	2.1	2.1	2.0	3.4b	2.9	4.7	3.8	6.1
Services	7)	71.8	70.8	69.1	68.8	70.6	69.2b	72.1	73.7	74.3	71.0
SI: Unemployment rate: share of labour force that is unemployed (%)		19.3	19.3	21.2	20.7	22.7	27.7b	30.3	29.6	19.3	16.8
Share of male labour force that is unemployed (%)		:	:	:	:	:	:	:	:	18.1	15.9
Share of female labour force that is unemployed (%)		:	:	:	:	:	:	:	:	20.9	17.9
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		:	:	:	:	:	:	:	:	:	:
SI: Long-term unemployment rate: share of labour force that is long-term unemployed (%)		:	:	:	:	:	:	:	:	:	:

<b>Social cohesion</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Average nominal monthly wages and salaries (national currency)		164.4	181.0	211.0	149.1	173.9	195.3	213.1	246.0	338.0	416.0
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI) (2000=100)		99.9	100.0	91.6	109.7	119.3	130.9	139.7	156.4	179.9	195.2
SI: Early school-leavers: share of population aged 18-24 having not completed upper secondary education and not currently in education or training (%)		:	:	:	:	:	:	:	:	:	:

<b>Standard of living</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Number of passenger cars per 1000 population		184.6	185.3	161.0	166.8	171.8	176.1	190.9	:	:	:
Number of subscriptions to cellular mobile telephone services per 1000 population		:	:	639.6	775.5	674.4	778.7	872.0	1 127.5	:	:

<b>Infrastructure</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )		18.1	18.1	18.1	18.1	18.1	18.1	18.1	18.1	:	:
Length of motorways (thousand km)		:	:	:	:	:	:	:	:	:	:

<b>Innovation and research</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
SI: Spending on human resources (public expenditure on education) relative to GDP (%)		:	:	:	:	:	:	:	:	:	:
SI: Gross domestic expenditure on research & development, relative to GDP (%)		:	:	:	:	:	:	:	:	:	:
SI: Percentage of households who have Internet access at home (%)		:	:	:	:	:	:	:	:	:	:

<b>Environment</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
SI: Total greenhouse gases emissions, CO2 equivalent (tons, 1990=100)		:	:	:	:	:	:	:	:	:	:
SI: Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP 2004)		:	:	:	:	:	:	:	493.8	384.4	:



SI: Share of renewable energy in electricity consumption (%)		:	:	:	:	:	:	:	:	:	:
SI: Road freight transport as a share of total inland freight transport (modal split of freight transport) (%)		:	:	:	:	:	:	:	:	:	:

<b>Energy</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Primary production of all energy products (thousand TOE)		:	:	:	:	:	:	:	982	795	1 136
Primary production of crude oil (thousand TOE)		:	:	:	:	:	:	:	:	:	:
Primary production of hard coal and lignite (thousand TOE)		:	:	:	:	:	:	:	982	795	1 136
Primary production of natural gas (thousand TOE)		:	:	:	:	:	:	:	:	:	:
Net imports of all energy products (thousand TOE)		:	:	:	:	:	:	:	-49	87	-25
Gross inland energy consumption (thousand TOE)		:	:	:	:	:	:	:	933	804	1 111
Electricity generation (thousand GWh)		2.7	2.7	2.5	2.3	2.7	3.3	2.9	3.0	2.1	2.8

<b>Agriculture</b>	Note	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Agricultural production volume index of goods and services (producer prices, previous year=100)		106.0	95.0	107.0	106.0	101.0	104.0	99.0	102.0	89.0	:
Total utilised agricultural area (thousand hectare)	8)	518p	518p	518p	518p	518p	518p	517p	517	516	516
Livestock: cattle (thousand heads, end of period)	9)	180e	179e	178e	183e	175e	169e	118	115	109	106
Livestock: pigs (thousand heads, end of period)	9)	22e	19e	21e	22e	24e	27e	11	13	10	10
Livestock: sheep and goats (thousand heads, end of period)	9)	306e	293e	244e	241e	252e	254e	255	249	222	209
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)	10)	195e	197e	194e	198e	203e	209e	186	178	173	160
Crop production: cereals (including rice) (thousand tonnes, harvested production)	11)	4p	3p	4p	5p	4p	3p	3p	3	2	3
Crop production: sugar beet (thousand tonnes, harvested production)		:	:	:	:	:	:	:	:	:	:
Crop production: vegetables (thousand tonnes, harvested production)		:	:	:	:	:	:	:	:	:	:

SI = Structural indicators

: = not available

p = provisional value

e = estimated value

b = break in series

1) The data are without Financial Intermediation Services Indirectly Measured (FISIM).

2) As of 31 December. Instead of standard M1, data under national definition of M0 are provided.

3) As of 31 December. Instead of standard M2, data under the national definition of M11 are provided. The monetary aggregate M11 comprises M1 increased by the Central Government's demand deposits in euros and other currencies. The monetary aggregate M2 includes M1 and the non-banking sector's time deposits with banks, in euros and other currencies, excluding deposits of the Central Government.

4) As of 31 December. Instead of standard M3, data under the national definition of M21 are provided. Monetary aggregate M21 comprises M2 increased by the Central Government's time deposits in euros and other currencies.

5) No official national currency exists. Euro is the currency in use.

6) Age group refers to persons aged 15 or more years.

7) From 2004 onwards, a new methodology, harmonized with the EU requirements, is used.

8) Agricultural area includes: arable land, area under pastures, fishponds and ponds.

9) Number of livestock in 1 000 including enterprises and cooperatives and households.

10) Calculated net quantity in 1 000 tonnes; includes enterprises and cooperatives, and households.

11) Includes households, enterprises and cooperatives.