



Brussels, 10.10.2012  
SWD(2012) 331 final

**COMMISSION STAFF WORKING DOCUMENT**

**MONTENEGRO  
2012 PROGRESS REPORT**

*accompanying the document*

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

**Enlargement Strategy and Main Challenges 2012-2013**

{COM(2012) 600 final}

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## 1. INTRODUCTION

### 1.1. Preface

Since March 2002, the Commission has reported regularly to the Council and Parliament on progress made by the countries of the Western Balkans region. This is the second report on Montenegro's progress since the Commission published its Opinion on the country's application for membership of the European Union in November 2010 and the European Council granted Montenegro candidate status in December 2010.

This report on progress made by Montenegro on preparing for EU membership:

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

This report covers the period from October 2011 to September 2012. 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 sources have been used, including contributions from the government of Montenegro, the EU Member States, European Parliament reports<sup>1</sup> and information from various international and non-governmental organisations.

The Commission has drawn 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

The Stabilisation and Association Agreement between Montenegro and the EU was signed in October 2007 and entered into force in May 2010.

Montenegro presented its application for membership of the European Union on 15 December 2008. Following a request by the Council, the Commission submitted its Opinion on Montenegro's application in November 2010. In December 2010, the European Council granted Montenegro candidate country status.

### 1.3. Relations between the EU and Montenegro

The Commission recommended opening **accession negotiations** with Montenegro in October 2011. This recommendation was reiterated in May 2012. Following a positive decision by the Council, endorsed by the European Council, accession negotiations with Montenegro were opened in June 2012. The screening of the chapters on judiciary and fundamental rights, and justice, freedom and security took place in spring, in line with the new approach for these

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<sup>1</sup> The rapporteur for Montenegro is Mr Charles Tannock.

<sup>2</sup> Enlargement Strategy and Main Challenges 2012-2013 - COM(2012) 600.

chapters. Screening reports to be prepared by the Commission for these chapters will provide substantial guidance, including on the tasks to be addressed in the action plans to be adopted by the Montenegrin authorities, which will constitute the opening benchmarks. The screening of the remaining chapters started in September, with the chapters on science and research, education and culture, and public procurement.

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

Overall, Montenegro continued to implement its obligations under the **Stabilisation and Association Agreement (SAA)** smoothly. The Stabilisation and Association Committee met in July and five sub-committee meetings have been held since October 2011. The stabilisation and associations meetings between representatives of the European Parliament and of the Montenegrin parliament continued to be held bi-annually. Members of the Joint Consultative Committee between the EU Committee of the Regions and Montenegro's local authorities have been appointed in March. A Civil Society Joint Consultative Committee between the European Economic and Social Committee and civil society organisations of Montenegro held its inaugural meeting in October 2012.

Montenegro participates in multilateral economic dialogue with the Commission and the EU Member States. The aim of this dialogue is to prepare Montenegro for participation in multilateral surveillance and economic policy coordination under the EU's Economic and Monetary Union. The dialogue included a ministerial meeting in Brussels in May 2012.

**Visa liberalisation** for citizens of Montenegro travelling to the Schengen area has been in force since December 2009. The Commission set up a post-visa-liberalisation monitoring mechanism to assess whether the implementation of reforms introduced by the country was consistent with the visa roadmap and sustainable. This was complemented by an alert mechanism to prevent abuses. The Commission presented its second monitoring report to the European Parliament and the Council in December 2011 and adopted the third in August 2012. A **readmission agreement** between the European Union and Montenegro has been in force since January 2008.

The EU provides **financial assistance** to Montenegro under the Instrument for Pre-accession Assistance (IPA). For the period 2007-2013, IPA allocations to Montenegro total € 235.2 million. Adopted in November 2011, the 2011-2013 Multiannual Indicative Planning Document (MIPD) for Montenegro entered into force on 1 March 2012. The revised IPA Regulation transferring Montenegro from Annex II (potential candidates) to Annex I (candidates) entered into force on the same date. The IPA National Programme 2011 came to € 26 million and was adopted by the Commission in November 2011. The total IPA allocation for 2012 is € 35 million and € 34,6 million for 2013. Like the 2011 programme, the 2012-2013 national programme for Montenegro is focused on the priority sectors identified in the MIPD, in particular the rule of law, public administration reform, the environment and climate change. Montenegro also benefits from regional and horizontal IPA programmes. It is participating in five cross-border cooperation programmes with neighbouring Western Balkan countries; including in the new 2011-2013 cross-border cooperation programme with Kosovo\* adopted in December 2011. Montenegro is also participating in transnational cooperation programmes under the European Regional Development Fund and in the IPA Adriatic cross-border programme with Member States. The IPA programme is currently managed by the EU Delegation in Podgorica. Montenegro's preparations for transferring management of components I and II of the IPA programme from the EU to the national authorities have advanced further.

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

EU financial support has been provided for the development of **civil society** under the Civil Society Facility.

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

## **2. POLITICAL CRITERIA**

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

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

#### *Parliament*

Following parliament's decision in July 2012 to shorten its mandate, the President called for early parliamentary elections to be held on 14 October.

As regards the legislative framework for elections, the law on the election of municipal councillors and members of parliament, adopted in September 2011, has started to be implemented. All parliament's seats have been awarded on the basis of the candidates' order on the electoral lists, unlike previously, when half of them were awarded at the discretion of the candidate list submitter. The president and nine members of the State Election Commission were appointed by the parliament in December 2011. The new provisions providing for 30% of female candidates on the candidate lists were, for the first time, implemented in elections held in two municipalities in April. Nevertheless, women remain underrepresented in the parliament.

The electoral legislation needs to be amended in line with a number of pending OSCE/ODHIR and Venice Commission recommendations, in particular as regards the dissolution of coalitions and their funding obligations, and the extension of the Central Election Commission's mandate to municipal elections. The issue of the constitutional two-year residency requirement before citizens can obtain the right to vote remains unaddressed for national elections. No sanctions are provided for certain provisions of the law, in particular with regard to the restriction for public officials to participate in election campaigns.

The parliament amended its rules of procedure in May, which entered into force in July. The new rules provide for more regular control hearings and enhanced guarantees for draft legislation presented by the opposition parties to be examined by the parliament. They also provide for the setting-up of stand-alone parliamentary committees on European integration and anti-corruption matters, chaired by opposition MPs. As a result, the National Council for European Integration has been abolished. European integration remains a key priority for parliamentary work.

There has been further progress with regard to the transparency of the parliament's work. At the request of civil society organisations, it started publishing the voting record of individual MPs on its website in December 2011. A new law adopted in November 2011 regulates the Parliament's relations with lobbyists. Further measures have been taken to improve

interaction with civil society and the public. The human rights and freedoms parliamentary committee has been tasked to deliberate on petitions and complaints submitted by citizens and civil society. However, procedures for acting upon civil initiatives have not been adopted yet.

The parliament has continued its intensive legislative activity, which has included a number of areas relating to European integration, such as preventing money laundering and the financing of terrorism, and auditing EU funds. The work of the research department has been strengthened. The role and the capacity of the parliament in monitoring the process of bringing Montenegro's laws into line with EU law have been enhanced. The new rules of procedure tasked the parliamentary committees to monitor the implementation and the compliance of new legislation with the EU *acquis* in the areas of their competence. Their capacity and expertise are to be further strengthened in this regard.

Parliament's oversight role has been enhanced, notably through the adoption of a law on parliamentary inquiry, amendments to the parliament's rules of procedure and to the law on data secrecy, as well as a steady increase in the number of parliamentary questions, scrutiny and consultative hearings with high-level state officials and discussions of reports submitted by various institutions. The defence parliamentary committee has been tasked by the new rules of procedure to monitor the work of all security bodies and for the first time, under the law on parliamentary oversight of the security and defence sector, it examined the activity report of the police and the state of security. As regards parliamentary oversight of anti-corruption matters, in February the parliament decided, for the first time, to open a parliamentary investigation and establish a committee of inquiry in charge of collecting information and preparing a report on alleged corruption in the privatisation of the company 'Telekom Crne Gore'. The law on parliamentary inquiry, enacted in July, defined the scope of work of the committee of inquiry and provided it with the possibility to request information from all state and local bodies and legal entities. Follow-up to the conclusions adopted by parliamentary committees in oversight hearings is limited and needs to be reinforced.

The Parliament's administrative capacity has been strengthened, notably through increased staff numbers, from 100 in October 2011 to 122 in August 2012, and a number of training courses. Continued efforts are needed to further enhance the parliament's administrative and expert capacity, for all parliamentary committees too. Office space and technical equipment is lacking, even for MPs. Training of existing staff and the recruitment of qualified new staff need to be pursued.

*Overall*, progress has been made with regard to Parliament's functioning and its legislative and oversight role in matters including the rule of law. Implementation of recently adopted legislation on elections has started, and the administrative and expert capacity of the parliament has been reinforced. Transparency has improved and stand-alone committees on European integration and on combating corruption have been provided for. Efforts undertaken to enhance the parliament's legislative and oversight capacity need to be pursued.

#### *Government*

The composition of the government changed in March and July. The Parliament appointed a new Minister for Foreign Affairs and European Integration, following the resignation of his predecessor. A new Minister for Minority Rights was appointed, while the Deputy Prime Minister and Minister of Justice took over the human rights portfolio. A new Minister of Defence was also appointed.

In December, the government appointed the Chief Negotiator for Montenegro's accession negotiations, who also became State Secretary for European Integration and National Coordinator for the IPA. In February, the government adopted a decision on the structure of

accession negotiations with the EU. The working groups for negotiations on chapters 23 and 24 were set up in March, while those for chapters 5, 25 and 26 in July. They include representatives of civil society. The working groups for the remaining chapters are being gradually appointed.

In December, the government adopted a rulebook for the internal organisation of the Ministry of Foreign Affairs and European Integration with the aim of strengthening its structures and human resources. The administrative capacity for the coordination of European integration and the accession negotiations of most of the *acquis* chapters needs to be substantially strengthened.

The government's rules of procedure, adopted in December and in force since January, introduced mandatory impact assessments for draft legislation and required the government to submit its work programme to the parliament. The rules also provided for enhanced public consultations on draft legislation and strengthened expert support for the government's working bodies. Two related decrees were adopted, setting out procedures for cooperating with NGOs and for conducting public debates. The government also adopted its 2012 work programme and an analysis of the implementation of laws and by-laws, concluding that law enforcement is deficient in certain areas and adopting a number of follow-up measures.

With regard to *local self-government*, a law on the territorial organisation of Montenegro was enacted in November and the law on local self-government amended in July, with a view to enhancing the transparency, efficiency and accountability of the administration at local level. An obligation was introduced for the municipal authorities to publish all contracts with natural or legal persons on their official websites. In June, the government adopted an analysis of the functioning of the local self-government, which contains recommendations for further legislative amendments. Local administration needs to be rationalised and its efficiency strengthened.

*Overall*, government policy-making has further improved. The structures for the accession negotiations are gradually being set up and include representatives of civil society. The administrative capacity for the coordination of European integration, including financial assistance, needs to be further strengthened to meet the requirements of the accession negotiations. The overall capacity of ministries to produce high-quality legislation and impact assessments needs to be enhanced. As regards local government, further efforts are needed to implement recent legislation and to establish a transparent, efficient and accountable administration.

#### *Public administration*

During the reporting period, Montenegro continued to work on modernising its public administration. Comprehensive reform of the public sector was launched, led by the Ministry of the Interior and the Ministry of Finance, aimed at rationalisation and modernisation.

In April, the government endorsed a 2012-2016 plan for reorganising the public sector with a view to increasing its efficiency, as part of the broader reform in this field. The plan presents an initial analysis of the state institutions affected by the reform, and sets out an initial timeline and actions. It aims to make better use of budget resources by making the salary system more uniform and transparent and by identifying overlaps. At the same time, it lays the basis for the building capacity in areas relating to European integration. The plan covers the state administration, all public authorities and all institutions which have either been set up by the government or financed, even partly, by the state budget. Follow-up to the measures included in the reorganisation plan need to be ensured to accomplish effective progress in the public administration's rationalisation process. The implementation of the public



administration reform strategy (AURUM) has to benefit from better coordination and monitoring mechanisms.

With a view to streamlining public administration and increasing its efficiency, the government continued to adopt relevant implementing legislation. In December the government adopted a decree on the organisation of the state administration, reducing the number of public procurement entities and facilitating internal auditing. The decree was amended in April to re-establish the financial autonomy of some independent bodies.

For the purpose of rationalising the public administration, the parliament amended the Law on Inspection Control to bring inspections within a single authority and improve the business environment. Implementing regulations are still needed.

The Law on Salaries of Civil Servants and State Employees was amended in November and February, widening its scope to cover employees in State funds. The law allows the parliamentary services and administrative services of the judiciary to adjust the variable part of their employees' salaries. A corresponding action plan was endorsed by the government. The Law on General Administrative Procedures remains to be revised in line with European standards and best practice.

Since January 2012, impact assessments have been carried out for new legislation and submitted to the government together with the opinion of the Ministry of Finance on the impact that the implementation of the new law will have on the state budget. To increase transparency, the government adopted additional implementing legislation aimed at strengthening cooperation between state administration bodies and non-governmental organisations.

The Human Resources Management Authority (HRMA) organised a number of training courses in fields relevant to the work of the public administration, together with international partners. The HRMA's capacity to coordinate training activities throughout the administration and its remit need to be strengthened.

With regard to the State Audit Institution (SAI), several steps have been taken to improve audit methodology. The SAI's powers were extended to auditing of political party financing via amendments to the Law on Political Party Financing. A strategy for the development of this institution was endorsed by the government in April. Additional amendments to the law, aimed at strengthening SAI's independence with regard to financial management and staff recruitment, have not yet been adopted. The SAI's capacity needs to be reinforced especially with regard to its new powers. *(See also Chapter 32 – Financial control)*

As regards e-government, a decree which entered into force in November allows all state institutions to use electronic management of documents in their work.

The *Ombudsman's* administrative capacity and budget have been strengthened. The Ombudsman's cooperation with civil society is continuously improving, and the influence of the office has generally increased. Yet, the law on the Ombudsman remains to be aligned with the *acquis*, for what concerns its independence. The financial and human resources of the Ombudsman have been strengthened but need to increase.

*Overall*, Montenegro has taken further steps to address the challenges of public administration reform. The legislative framework and the implementation of the recent legislation need to be improved, in a financially sustainable manner and with adequate verification mechanisms. The capacity of the Ombudsman has been reinforced but needs to be further enhanced.

*Judicial system (See also Chapter 23 – Judiciary and fundamental rights)*

With regard to the *independence* and *impartiality* of the judiciary, implementation of the legislation on courts, the Judicial Council and the State prosecutor's office, amended in July 2011 to strengthen judicial accountability and independence, continued. The Judicial Council and the Prosecutorial Council adopted rules of procedure setting out their organisational structure, functioning and decision-making procedures. The new Judicial Council was constituted in June and the new Prosecutorial Council in July. The first written tests for judges were held in February, in accordance with the new criteria. Future work needs to focus on setting up a single, country-wide recruitment system for judges and prosecutors, based on transparent and objective criteria. The promotion criteria for judges and prosecutors lack clarity and objectivity due to the lack of periodical professional assessment of judges and prosecutors' performance. The work of the Judicial and Prosecutorial Councils is hampered by insufficient administrative capacity and budget allocations. The ongoing constitutional revision, aimed at addressing undue political influence in the judiciary, needs to be completed in line with European standards.

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

Concerning the *accountability* of the judiciary, all decisions of the Administrative Court and the Appellate Court became publicly accessible. Commissions for monitoring compliance with the Codes of Ethics of judges and prosecutors were appointed. Members of the Disciplinary Commissions were appointed, together with two staff to investigate complaints of corruption in the judiciary. However, corruption and conflict of interest are still insufficiently monitored in the judiciary. The disciplinary system needs to be further strengthened and differentiated in line with the principle of proportionality, and the Disciplinary Commission's dual role in investigating and deciding on disciplinary proceedings reviewed. Procedures for removing professional immunity need to be strengthened to ensure that judges and prosecutors are fully accountable under criminal law. A reliable system of professional evaluation of judges and prosecutors still needs to be established. Plans to publish all court rulings have been only partially implemented.

Regarding the *efficiency* of the judiciary, the backlog of cases has been further reduced by approximately 4%. Seven further notaries were appointed, bringing their total number to 40 out of the 65 foreseen notary posts. Following the entry into force of the Law on Enforcement and Security of Claims, transferring powers for civil enforcement to the bailiffs, the Parliament enacted the Law on Public Bailiffs in December. Initial steps have been taken to rationalise the court network, but Montenegro remains one of the countries with the highest number of basic courts, judges, prosecutors and administrative staff per capita in Europe. Due to this high administrative cost, there are not enough budget resources to implement the new Law on Free Legal Aid or to remedy shortfalls in infrastructure and equipment, which continue to hinder judicial efficiency. The quality of judicial statistics needs to be improved and a system to monitor the length of trials introduced. Enforcement of civil decisions remains weak, as bailiffs have yet to be recruited. The independence and the administrative and financial capacity of the Judicial Training Centre need to be strengthened and initial training with set curricula for all members of the judiciary established.

*Overall*, Montenegro has made some progress on the judiciary. Implementation of recently adopted legislation has started. Progress has been made with regard to the publication of court rulings and the case backlog. The process of constitutional reform to strengthen the independence of the judiciary in line with European standards remains incomplete. Further

efforts are needed to ensure merit based appointments and career development, as well as to strengthen accountability and integrity safeguards within the judiciary.

*Anti-corruption policy (See also Chapter 23 – Judiciary and fundamental rights)*

Some progress has been made in the fight against corruption. The strategy for fighting corruption and organised crime and the revised 2011-2012 action plan are being implemented. The overall institutional framework for monitoring implementation of the action plan is working well.

Montenegro has further strengthened its anti-corruption legal framework, with a view to ensuring alignment with the relevant European and international standards. Amendments to the Labour Law enacted by the parliament in November extended protection for whistleblowers to cover the private sector. Amendments to the Law on Free Access to Information were enacted by the parliament in July. Amendments to the Law on Political Party Financing were enacted in December, covering supervisory institutions and in-kind contributions and fixing the ceiling for membership fees at 10 % of a member's annual income. Recently adopted legislation on conflicts of interest and public procurement started to be implemented. The mechanisms for checking on the funding of political parties and electoral campaigns and imposing penalties need to be reinforced and set out in legislation. Civil servants' asset declarations are still not being checked on substance to establish cases of illicit enrichment. The professional capacity and independence of the supervisory institutions, in particular the State Election Commission, the State Audit Institution and the Commission for the Prevention of Conflicts of Interest, need to be enhanced. The control system for public procurement remains to be strengthened.

Some progress was made on prevention of corruption. In December, the Directorate for Anti-Corruption Initiatives (DACI) was transferred to the Ministry of Justice to ensure better coordination of anti-corruption activities. The DACI conducted a number of awareness-raising campaigns on reporting corruption and on the protection of whistleblowers. Civil society organisations have continued to actively contribute to enhancing the strategic framework and have provided evidence in corruption cases. The recommendations contained in the risk assessment of areas vulnerable to corruption started to be implemented. Judges and prosecutors have been given training on combating corruption, in particular to help them implement the new Criminal Procedure Code. Measures have been taken to prevent corruption in the judiciary. A special allowance has been given to judges working on organised crime and corruption cases, and two staff were appointed to assist the Disciplinary Commission with checking on complaints of corruption in the judiciary. Nonetheless, asset declarations made by judges and prosecutors are not yet cross-checked against other data and mechanisms to prevent corruption in the judiciary need to be further strengthened. The DACI's capability needs to be upgraded and its capacity to monitor implementation of the government's action plan for fighting corruption and organised crime reinforced.

Some progress has been made on suppression of corruption. The full entry into force of the new Criminal Procedure Code in September 2011 has helped to speed up the criminal investigation procedure and has reduced the risk of information leakage. In June, the parliament amended the Law on Custody of Seized and Confiscated Property to define the methods of management of seized or confiscated proceeds of crime. The institutional and operational capacity of prosecutors, judges and police to fight corruption has been strengthened through further training support and additional equipment. The use of special investigative measures is more systematic and a special investigative team has been operational in the Special Prosecution Office since October 2011. Its capacity needs to be

increased, in particular by acquiring access to relevant databases. Inter-agency cooperation has improved to a certain extent, but needs to be further developed.

Montenegro's track record in combating corruption has improved. Three second-instance and four first-instance verdicts have been issued against 29 individuals for abuse of office and bribery. Among those convicted to imprisonment are the former Mayor of Budva, his deputy, a member of the parliament and a number of municipal officials. Nevertheless, corruption remains widespread and continues to be a serious cause for concern. It continues to represent an important vulnerability in law enforcement investigations of organised crime. A track record of combating corruption needs to be steadily built up, particularly in terms of investigations and convictions in high-level corruption cases. The capacity of prosecutors and police to conduct financial investigations, trace criminal assets and present related evidence before the courts needs to be improved. Inter-agency cooperation and information exchange, in particular between police and prosecutors, needs to be further enhanced. There are still no corruption cases in which seizure or confiscation of assets was ordered. The independence of the judiciary remains a matter of concern affecting the country's determination to combat corruption.

*Overall*, some progress has been made on fighting corruption. Implementation of recently-adopted legislation in the key areas of political party financing, prevention of conflicts of interest and public procurement has started. The capacity of the supervisory institutions, in particular the State Election Commission, the State Audit Institution and the Commission for the Prevention of Conflict of Interest, needs to be enhanced. Montenegro has further developed its track record of investigations, prosecutions and convictions in corruption cases, but their number remains low and there are still no seizure or confiscation of assets ordered for corruption offences. Corruption remains widespread and continues to be a serious cause for concern, hindering law enforcement investigations of organised crime.

## **2.2. Human rights and protection of minorities** *(See also Chapter 23 – Judiciary and fundamental rights)*

### *Observance of international human rights law*

As regards **international human rights instruments**, Montenegro signed the third optional protocol to the convention on the rights of the child in February and ratified the Hague Convention on protection of children and cooperation in respect of inter-country adoption in March, to prevent children being sold for adoption. Nevertheless, the Constitution (Article 20) is not yet in line with Article 13 of the European Convention on Human Rights (ECHR), in relation to safeguarding the right of an effective remedy before the national authorities for violations of rights under the convention. Montenegro has not yet started the ratification process for the Convention on Reduction of Statelessness. Its implementation of international human rights standards needs to be stepped up and the national legislation brought into line.

As regards the **European Court of Human Rights** (ECtHR), efforts have been made to ensure national courts' compliance with ECtHR case law, partly by holding training courses for judges and prosecutors. During the reporting period the ECtHR delivered judgments on 17 applications finding that Montenegro had violated rights guaranteed by the ECHR, most of them relating to freedom of expression, protection of property and the right to a fair trial. A total of 264 new applications have been submitted to the ECtHR since September 2011, bringing the total of pending applications to 851.

With regard to the **promotion and enforcement of human rights**, some progress has been made. The administrative capacity and budget of the Protector of Human Rights and Freedoms (the Ombudsman) have been strengthened; this institution produced three reports

analysing the state of police premises used for detainees, protection from discrimination, and the situation of child begging. The Parliamentary Committee for Human Rights and Freedoms endorsed these reports between October and November, demonstrating increased involvement in the promotion of human rights. The Ombudsman's cooperation with civil society is continuously improving.

The authorities, including those at the highest level, showed a more positive attitude towards human rights discourse. In March, the Justice and Human Rights portfolios were merged under the Deputy Prime Minister. The human rights role of the state prosecutor remains limited. The capacity of the Ombudsman needs to be further strengthened. Shortcomings persist in the protection of human rights by judicial and law enforcement authorities, some of them in relation to alignment with European standards and ECtHR case law.

### *Civil and political rights*

Progress was made in the **prevention of torture and ill-treatment** and the fight against impunity. The Ombudsman started to implement the monitoring mechanism; a deputy ombudsman was specifically appointed in June to monitor the prevention of ill-treatment. Nevertheless, competence in this area needs to be further developed and staff need further training. The number of reported cases of ill-treatment remains low, while processing of reported cases continues to be slow. The legal and institutional framework for prohibiting ill-treatment still needs to be brought into line with international standards, particularly with regard to prison conditions and the treatment of convicted persons.

Some progress has been made as regards the **prison system**; the legal and policy framework was enhanced. An action plan for improving the prison system was adopted and it is being implemented. The prison administration was transferred in December under the Ministry of Justice, ensuring better coordination; yet, the capacities of the relevant staff have to be enhanced. The newly adopted law on alternative sanctions has started to be implemented but further efforts are needed to reduce the prison population, especially the non-violent offenders, since prison overcrowding remains a concern. Living conditions in prisons have improved, but are still not fully in line with international standards, in particular as regards education, prison regime, healthcare and medical treatment. The detention conditions in Bijelo Polje remain of particular concern.

With regard to **access to justice**, some progress has been made. The Law on Free Legal Aid came into effect in January and relevant services are now available in all the basic courts in Montenegro. Nevertheless, certain categories of people are not covered. Administrative capacity needs further development. The length of court proceedings remains an issue of concern.

Progress has been made in promoting **freedom of expression**. The decriminalisation of defamation helped to improve the media environment. The authorities continued to promote a more favourable environment for journalists. In June 2012 the parliament adopted the Law on Amnesty, which, inter alia, enables the President to grant a pardon for individuals convicted of defamation and insult, even in the absence of a request. There have been first instance convictions in some recent cases of violence against journalists; yet, efforts to investigate and prosecute cases of violence against journalists need to be stepped up. The media environment remains highly politicised and divided.

Additional staff were hired to increase the monitoring capacity of the Electronic Media Agency, but the self-sustainability and monitoring capacity of the audiovisual regulator are a concern. Recent amendments to the law on electronic media put the regulator's independence

at risk. Reform of the public broadcaster, aimed at making it more modern and self-financing, has to continue.

Progress has been made with regard to **freedom of assembly and association**. Cooperation between state institutions and civil society organisations is improving. Dialogue with NGOs dealing with social reform and gender equality needs to be further strengthened.

**Freedom of thought, conscience and religion** is generally ensured; tensions persist between the Serbian and Montenegrin Orthodox Churches, notably with regard to property issues.

*Overall*, good progress was made in improving the legal and administrative framework for civil and political rights in Montenegro, and enforcing them. The Ombudsman's power to act against ill-treatment needs to be enhanced, and living conditions in prisons require improvement. Efforts to investigate and prosecute old cases of violence against journalists need to be stepped up.

*Economic and social rights (See also Chapter 19 – Social policy and employment)*

Little progress has been made with regard to **women's rights and gender equality**. The strategy for implementing the law on protection from family violence was adopted. However, domestic violence is still an issue of concern. Implementation of the legal and institutional framework for promoting and enforcing gender equality is hindered by the scarcity of human and financial resources. Women remain under-represented on the labour market.

Some progress has been made with regard to **children's rights**. The Ombudsman is more involved in their protection. Awareness-raising campaigns have been launched. The Law on Juvenile Justice was adopted in December 2011. The Ombudsman's capacity in relation to children's rights and those of the Council on the Rights of the Child need to be further enhanced.

Some progress has been made with regard to the rights of the **socially vulnerable and/or persons with disabilities**. In March, the government adopted the Action Plan for the integration of persons with disabilities 2012-2013. The law on disabled persons still presents shortcomings as regards conformity with the EU *acquis*. The Council for the care of disabled persons was established in May. The monitoring and sanction mechanisms of institutions dealing with persons with disabilities need to be further strengthened.

Some progress has been made in the area of **anti-discrimination policies**. The Ombudsman produced various reports on human rights issues, which were discussed by the parliamentary committee on human rights. The Ombudsman's capacity remains limited despite the appointment of new staff; the relevant legislation still presents several shortcomings, e.g. concerning the Ombudsman's independence. The anti-discrimination law also needs to be amended, to bring it in line with the *acquis*. The implementation of anti-discrimination policies and the monitoring and enforcement of human rights need to continue. As regards the rights of lesbian, gay, bisexual and transgender (LGBT) persons, some progress has been made. The government showed greater openness to promoting and defending LGBT rights and has taken concrete steps to this end. The Prime Minister's adviser on human rights and protection against discrimination has continued to be active on LGBT rights. A shelter and a counselling line for LGBT persons are active. The authorities ensured the rapid identification and arrest of the alleged perpetrators who attacked in September an actor and the director of a video against homophobia; yet, more generally, the authorities' handling of LGBT rights cases remains slow. LGBT persons, as well as civil society activists engaged in promoting and protecting LGBT rights, are still subject to discrimination.

**Labour and trade unions rights** are generally respected; yet, more attention is needed to ensure full transparency of representativeness and the right to establish new unions, in line

with the relevant national regulations. Negotiations on a new collective agreement have not yet finished and social dialogue needs to improve. The capacity of the Social Council remains limited. Amendments to the Labour Law are still required to bring it into line with the EU *acquis* and implementation remains a challenge.

Little progress has been made in the area of **property rights**. The process of restitution is not yet fully ensured and the work of the relevant commissions is proceeding slowly. Displaced persons with permanent residence in the country still face discrimination in relation to access to land.

*Overall*, Montenegro has made progress on social and economic rights, by consolidating the relevant legal and institutional framework. The more positive attitude of the authorities has contributed to the promotion of these rights, but additional financial allocations, and skilled human resources, need to be deployed to enforce them. The handling of violations of social and economic rights needs to improve.

#### *Respect for and protection of minorities, cultural rights*

As regards the promotion and protection of **minorities** and **cultural rights**, progress has been made. The implementation of the Law on Minority Rights has continued. The Minority Fund has some shortcomings regarding the implementation of the projects it finances. Interethnic relations in the country are generally good, but Roma are still underrepresented in the public institutions.

Progress has been made on the inclusion of **Roma, Ashkali and Egyptians**. The strategy for improving the status of Roma and Egyptians in Montenegro 2012-2016 and the Action Plan for 2012 were adopted by the government in April, in line with the operational conclusions of the social inclusion seminar on Roma issues; their implementation is slow. Some progress has been made to facilitate civil registration, in particular of displaced persons among the Roma, Ashkali and Egyptian population. Nevertheless, discrimination is prevalent in access to employment and to social and health care, although a limited number of measures were undertaken to facilitate employment and education.

Progress has been made on resolving the issues of **displaced persons**. In September 2011, the government set up a Coordination Board to oversee implementation of the Strategy for finding durable solutions to the status of displaced and internally displaced persons in Montenegro, with particular focus on the Konik area. The government provided a quick and efficient emergency response to the fire in Konik camp in July, which left 800 Roma IDPs homeless. In November, the parliament adopted the amendment to the Law on Foreigners which extended the deadline for applications for the status of foreigner with permanent residence to 31 December 2012. The number of applications has increased. An office of the Ministry of the Interior opened in Konik camp for some months, to facilitate the registration of displaced persons. The temporary decree enabling access to social and economic rights for displaced persons was also extended, to June 2013. Additional measures and amendments are needed to ensure full access to economic and social rights for both foreigners with permanent residence and displaced persons.

The detailed urban plan proposing changes to the Konik area was adopted in February, setting the framework for the construction of housing for the existing population; yet, the capacity within the government to effectively implement projects on this scale needs to be improved. The Law on Social Housing has not yet been adopted.

*Overall*, Montenegro made progress in the protection of minorities and cultural rights. The adoption of the Strategy to improve the situation of the Roma, Ashkali and Egyptian population and the relevant Action Plan are positive developments to this end, but the

inclusion of the Roma, Ashkali and Egyptians needs to be improved, in particular through the implementation of the relevant policy documents, as they still face discrimination. Progress in granting legal status to displaced persons has continued, but there are still gaps in access to economic and social rights for these people.

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

With regard to cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)**, Montenegro neither received requests for assistance nor had cases referred back to its national authorities from the ICTY for possible further investigation.

Three out of four local war crimes cases in Montenegro are still open. Four members of the former Yugoslav People's Army were convicted in January for war crimes committed in the Morinj camp in 1991-92. A new trial has started in the case of the deportation of Bosniaks in 1992. The processing of war crime cases needs to be stepped up and fully aligned with international human rights and humanitarian case law.

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

Significant progress has been made as regards the **Sarajevo Declaration Process**, which brings together Bosnia and Herzegovina, Croatia, Montenegro and Serbia and aims at finding sustainable solutions for the refugees who were displaced as a result of the armed conflicts in ex-Yugoslavia during the 1990s. The four countries signed a ministerial declaration in November 2011 in Belgrade, renewing their political commitment to bringing this chapter to a close. They agreed on a Regional Housing Programme assisting some 27,000 households or 74,000 individuals. The programme was presented for international donor support at the Sarajevo April 2012 donors' conference, which resulted in some € 265 million being pledged. Programme implementation is at an early stage. Good cooperation needs to continue between the four countries on all outstanding issues in the process, including data exchange and statistics, civil documentation and pension rights.

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

As regards regional judicial and police cooperation, an agreement on extradition between Montenegro and the former Yugoslav Republic of Macedonia entered into force in 2012. A memorandum of cooperation was signed with the police authorities of Bosnia and Herzegovina, aimed at improving the joint fight against organised crime, corruption, terrorism and drug trafficking. A similar agreement was signed with the former Yugoslav Republic of Macedonia in March.

Montenegro continues to maintain good **bilateral relations with other enlargement countries and with neighbouring EU member state Italy**. However, the delimitation of borders with Croatia, Serbia, Bosnia and Herzegovina and Kosovo remains pending.



Cooperation intensified with *Albania* in economic and trade relations. The two countries initialled an agreement on cooperation in education and signed an agreement on recovery of Albania's debt to Montenegro, an agreement on opening a joint border crossing point, and a cooperation plan on defence.

Relations with *Bosnia and Herzegovina* remained good. Agreements were signed and/or ratified in various fields of cooperation, including international transport, mutual protection of classified information, legal aid and enforcement of court decisions. A dual citizenship agreement was concluded in June.

Montenegro continued to have good relations with *Croatia*. The two countries signed an agreement on mutual enforcement of court decisions in criminal matters and a memorandum on cooperation in the area of health. The temporary agreement on Prevlaka continues to function smoothly. There has been no further progress in the procedure for submitting the border demarcation to the International Court of Justice.

Cooperation with *the former Yugoslav Republic of Macedonia* was further strengthened. The extradition agreement entered into force, as did agreements on economic cooperation and on the EU accession process. Agreements on the readmission of persons residing without authorisation and on police cooperation were signed.

Relations with *Serbia* remained good, overall. The Serbian Prime Minister led a senior delegation in a visit to Podgorica in December. The two governments signed a number of agreements on sectoral policies, an agreement on cooperation on air traffic control and a protocol on cooperation in resolving the fate of missing persons. There were no developments regarding the dispute between the Orthodox churches in the two countries.

Montenegro continued to maintain good relations with *Kosovo*, even though border demarcation has not progressed. The return of those displaced persons willing to come back to Kosovo is proceeding slowly.

Relations with *Turkey* are good. The two countries signed a number of agreements on protection and promotion of investments, air transport and social security, and a memorandum of understanding on education. Montenegro and Turkey worked more closely together in the field of economic cooperation.

*Overall*, Montenegro continues to satisfy the Stabilisation and Association Process conditionality on cooperation with the ICTY and regional cooperation. Certain bilateral issues with neighbouring countries are still unsolved, especially in the area of border demarcation.

### **3. ECONOMIC CRITERIA**

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

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

##### *Economic policy essentials*

In January 2012 the country presented its first Pre-accession Economic Programme (PEP), covering the period 2012-2014. The priority of the programme is to reinforce economic and financial stability by continuing with fiscal consolidation and structural reforms. *Overall*, the political consensus on market economy fundamentals and economic policy remained strong.

### *Macroeconomic stability*

The economy continued to recover in 2011 for a second consecutive year, with real GDP growing at a similar growth rate as in 2010 (at around 2.5%). In 2011 the recovery was primarily driven by private consumption fed by continued increases in tourism, whereas the contribution of net exports to growth dropped significantly, reflecting import developments and the recovery of commodities exports. Retail sales increased by 15% at constant prices, reflecting demand from tourism. Nonetheless, domestic demand still remained constrained as bank lending further contracted, investments slowed down, employment growth remained limited, and net wages rose only marginally. In the first half of 2012, economic activity slowed down. The value of construction works contracted in real terms by 16% year-on-year in the first half of 2012, after recording an average expansion of 7% in 2011. Industrial output declined by 7.5% year-on-year in the first six months of 2012, due to a decrease in electricity production and mining, while manufacturing recorded 4% expansion. Still, domestic consumption continues to be resilient, as reflected by the increase in retail sales by 9% in real terms in the first half of 2012, once more supported by tourism. Average per-capita income in purchasing power standards rose to 43% of the EU average in 2011, up from 41% in 2010. *Overall*, although the economy is still in the process of recovering, the performance of several sectors remains weak.

The current account deficit contracted to 19% of GDP in 2011, compared to 25% a year earlier. The improvement was driven by an increase in the surplus of the balance of services from 13% of GDP in 2010 to 16% in 2011. However, the trade deficit still accounts for 40% of GDP. The income balance shifted from a deficit to a surplus, while current transfers improved marginally. On the financial account, net FDI inflows contracted markedly, totalling 12% of GDP, compared to 18% a year before. As a result of lower net capital inflows, the central bank had to use foreign exchange reserves equivalent to 3% of GDP to finance the high current account deficit, underlining vulnerabilities related to the high reliance on external financing. In the first half of 2012 the trade deficit deteriorated following a sharp decline in exports as a result of the contraction of industrial production as well as terms of trade losses in aluminium, causing an 8.7% year-on-year expansion of the current account deficit to 14.5% of annual GDP. The surpluses in the services and current transfers' balances improved significantly compared to the previous year, but were partially offset by the negative results in the income balance. The financial account surplus contracted by 9% year-on-year while the capital account deficit came close to balance. Net FDI inflows contracted to 4.3% of annual GDP from 5.6% a year earlier while net loans inflows (i.e. other investments) reached 3% of GDP, largely reflecting government financing operations. Net errors and omissions accounted for additional 6% of GDP. *Overall*, the large external imbalances deteriorated, reflecting weak export capacity.

Unemployment was very high at 20% on average in 2011 and in first half of 2012, according to the Labour Force Survey (LFS) Although employment declined markedly by -6.4% in 2011 compared to the previous year, the rate of contraction decelerated in the first half of 2012 (-0.9%). The activity and employment rates remained low at around 57% and 46% respectively during 2011 and the first half of 2012. There remain significant discrepancies in labour statistics between Labour Force Surveys (LFS) and the Agency for Employment (AEM) administrative records. Slow labour market dynamics have been reflected in the moderation of wages. In the first half of 2012 the average gross wage grew by nominal 0.7% year-on-year. In December 2011, amendments to the labour law introduced several changes with the aim of encouraging job creation. These amendments limit the length of fixed-term contracts to 24 months, and put an end to the possibility of an unlimited number of renewals. They regulate temporary employment agencies. They also reduce collective dismissal costs

and limits the room for discretionary labour dispute resolution. Additional amendments were introduced in the law on employment of foreigners and disabled persons to facilitate their hiring. Also in December, the parliament adopted the laws on recognition of foreign professional diplomas and qualifications. *Overall*, the performance of the labour market remained weak.

Unilateral euroisation implies that there is limited scope for monetary policy discretion. Changes in reserve requirements remained the key tool for steering liquidity in the system. In November 2011, the central bank further lowered the reserve requirement ratios to 9.5% for deposits with maturity of up to one year, and to 8.5% for deposits with maturity over one year.

Inflation reached 3% in 2011, a significant increase after a deflationary episode in 2010. However, core inflation remained low, at around 1%. Consumer price inflation accelerated to 3.9% in June 2012. The main contributors were alcohol and tobacco reflecting a pronounced base effect from the increase in excises duties at the beginning of the year. Increases were also recorded in accommodation services (i.e. restaurants and hotels), food, as well as fuels and housing, the latter as a consequence of the increase in water supply prices and electricity tariffs. *Overall*, inflationary pressures have been increasing.

In 2011, the consolidated budget deficit reached 5.4% of GDP, up from the 5% deficit recorded the previous year. Total revenues fell to 39% of GDP in 2011, down from 42% a year earlier. Tax income remained broadly stable in 2011, with the corporate income tax and value added tax revenues recording some moderate growth over the year. However, social security contributions declined and the accumulation of tax arrears reached almost 1% of GDP during 2011, weakening revenue performance. Consolidation efforts translated into a reduction of general government expenditures to 44.6% of GDP, compared to 47.2% the year before. Spending was reduced on several items such as supplies and services, as well as on regular maintenance and capital expenditure. However, the impact of early retirements granted to workers from restructured companies offset efforts to cut expenditure. Further revenue shortfalls in the first quarter of 2012 (around 12% lower than to the same period last year), followed by the call of a state guaranteed loan to the aluminium plant worth 1% of GDP, resulted in a budget deficit of 3.2% of GDP in April, compelling the government to adopt a budget rebalance in May. The revised 2012 budget comprises additional expenditure cuts of 0.3% of GDP and tax increases for additional 0.7% of GDP. The budget deficit broadened further to 3.5% of GDP in May, to stabilise at 3.7% in both June and July. *Overall*, the stability of public finances is challenged by a receding economy and substantial contingent liabilities.

Contracting external demand, falling aluminium prices as well as production, and lower capital inflows have exposed the country to stronger external financing and liquidity constraints. The fact that Montenegro is using the euro as its sole legal tender, and has therefore abandoned standard monetary policy tools, leaves fiscal policy as the main effective policy instrument. As a response, the authorities have continued to aim at tightening fiscal policy, notably through public spending adjustments. *Overall*, macroeconomic stability has been broadly maintained, but risks and uncertainties persist due to the high reliance on external financing.

#### *Interplay of market forces*

The share of administered prices in the harmonised index of consumer prices (HICP) basket remained unchanged in 2011, at 10.7%. Administered prices concern: bread, electricity, water supply, sewerage collection, refuse collection, fuels, public pre-primary institutions, compulsory vehicle insurance and administrative fees. The telecommunications and energy

markets were further liberalised. At present, the Agency for Electronic Communications and Postal Services (EKIP) can regulate prices only if a company has a dominant market position. The energy regulator no longer sets the price of coal for electricity generation. *Overall*, the influence of the state in price dynamics is being limited by the independence of market regulators.

In April 2012 the Parliament requested the government to renationalise the ailing aluminium company and to execute the collateral of a state guaranteed loan after the majority owner of the company failed to honour it. However, at the time being the execution is being delayed. At the same time, the bankruptcy of the Niksić steel plant ended with the successful sale of all the factory assets (including 21.9% of state-owned shares) to a Turkish steel maker. Several transport companies, including railways, port and the national airlines have been listed in the privatisation plan for 2012. In the first half of 2012 calls for tenders were launched for the tobacco factory (NDKP), the Institute for Physical Therapy, as well as the container and bulk cargo terminal of the port of Bar. In July 2012, the privatisation council concluded a 90-year lease contract to develop a tourism resort on the former barracks site of Kumbor (Kotor Bay). However, negotiations on the sales agreement for newspaper Pobjeda and for dairy Zora are not yet concluded. *Overall*, the privatisation process resumed after two years of stagnation.

#### *Market entry and exit*

In 2011 there were 3,072 new enterprises registered in Montenegro, or 17% less compared to 2010. The pace of registration recovered during the first half of 2012, totalling 1,948 new businesses. The procedure for electronic registration of companies through the eGovernment portal became operational in May 2012 and the application of the regulatory guillotine further pursued. Line ministries started in mid-2012 monitoring the implementation of amendments to or revocation of parts of the legislation identified in the regulatory impact assessments as creating barriers to businesses. Credit constraints and the slow and lengthy process of granting municipal licences still hamper investment prospects and delay the establishment of new businesses. The number of bankruptcy cases has fallen significantly to 565 in 2011, compared to 2,196 a year before, although reaccelerated to 824 in the first half of 2012. *Overall*, while some improvement has been recorded in market entry procedures and bankruptcy recovery, further efforts are still required to facilitate municipal licences.

#### *Legal system*

In December 2011, the parliament enacted the Law on Public Bailiffs, transferring powers for the civil enforcement of commercial contracts to these new legal officers. However, enforcement of civil decisions remains weak and bailiffs are yet to be recruited. There have been no further legislative developments in the field of property rights after the adoption in June 2011 of the Law on State Surveying and the Land Registry. The modernisation of the land registry's current electronic system continues. Although the strategic and legislative framework to combat corruption has been strengthened, its implementation remains uneven. In order to address weaknesses in tax as well as in law enforcement, the government adopted in May 2012 a series of measures to combat the grey economy, increasing the number of inspection controls, notably on excise products, retail turnover accounts, and labour market registration. As a result, in May and June 2012 there were 5,700 inspections resulting in 1,400 infringement reports and two criminal charges. *Overall*, a new system has been introduced to improve the efficiency of civil enforcement of claims. However, weaknesses in the rule of law and corruption continue to have an adverse effect on the business environment and remain a major challenge.

### *Financial sector development*

The repair of the balance sheets of banks continued during 2011 and 2012. Banks (of which 83% of capital is foreign-owned while 2.7% remains in state ownership) have sold part of their non-performing assets to their international parent banks or to factoring companies. Consequently, total bank assets contracted by the end of 2011 by 4.5% year-on-year, to some 86% of GDP, and further declined to 83% of GDP at the end of July 2012. The share of total gross loans has stabilised since October 2011 until July 2012 at around 57% of GDP, and most of this credit (94%) has been extended to the private sector. However, total bank lending still contracted by 11% year-on-year in 2011 and by 4% in the first seven months of 2012. Yet, a return of confidence is being recorded in the recovery of banks' deposits, growing by 1.5% year-on-year in 2011 and accelerating to 4% in July 2012. Moreover, foreign companies increased their saving in local banks (by 11% year-on-year in July 2012) for the first time since August 2009.

The interest rate spread of more than 6 percentage points (average lending interest rates were 9.73% in December 2011 compared to deposit rates of 3.08%) suggests there is room for increased efficiency in financial intermediation and the high risk aversion related to the still elevated ratio of non-performing loans (NPL). The NPL ratio fell to 15.5% of total loans at the end of 2011 compared to 21.5% a year before. In 2011, the liquidity of the banking sector remained above the minimum legal requirement of 10%. The capital adequacy ratio (CAR) further improved to 16.5% in 2011, up from 15.9% a year earlier. The profitability of the financial sector also improved compared to the previous year, although it still remained negative at the end of 2011. The sector recorded an aggregated loss of € 3 million in 2011, compared to € 82 million a year before. However, in the first half of 2012 credit activity still remained negative while NPLs were on the rise again, reaching 17% in June, and the CAR ratio declined to 14.5% due to negative financial results of some banks. *Overall*, weaknesses remain in the financial sector. Although deposits are gradually flowing back into the system, banks' capital and lending are declining.

In 2011, there were five leasing companies, the same as a year before, and they recorded an annual increase in the value of contracts of 11% in real terms, totalling 1% of GDP, a modest figure compared to the volume of bank loans. Most contracts related to passenger cars (86%) followed at distance by commercial vehicles (8%). In 2011, the Montenegro stock exchange index plunged by 35% and continued contracting during the first eight months of 2012 by 21% compared to the same period a year before. Furthermore, market capitalisation fell in August 2012 by 6.6%, although the total turnover surged by 122% year-on-year to € 5 million. *Overall*, the share of non-bank financial intermediaries remains low.

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

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

The financial sector has gained in stability, but is still unable and too risk averse to provide much needed credit to the economy. Unemployment remained high. Although market mechanisms are becoming more efficient, the aluminium plant indebtedness presents a potential risk for public finances.

#### *Human and physical capital endowment*

The recent educational reform focuses on the qualification system, which consists of several types of external examinations –on grounds of recommendations from industry and businesses– and aims to improve the quality of education and to align curricula with professional needs (*see Chapter 26*). The first Matura and vocational exams were organised

for the 2011/2012 school year. Its results are now replacing entrance examinations to universities and other institutions of higher education at the end of high school. However, a high share of students from vocational and technical (VET) schools enrolls in the university instead of entering the labour market, while employers report shortages for graduates with the right set of skills. Some 20% of persons with vocational education after primary school and 16% of persons with tertiary education remained unemployed in 2011. *Overall*, labour law reforms and measures to improve the quality of the education system have been initiated, but further efforts are required to re-align skills mismatches.

Investments in Montenegro rely heavily on foreign savings, with FDI inflows playing a key role in improving economic competitiveness, diversifying the industrial base and raising the productive capacity of the economy. Despite a sharp slowdown, annual net FDI inflows have remained above 10% of GDP, indicating sustained investor interest. However, investments have been largely focused on real estate, totalling 39% of total equity investments in Montenegro in 2011, while companies and banks received 33%, and a still significant 28% share concerned the settlement of inter-company debt. The liberalisation of telecommunications and energy has facilitated the opening of their respective markets (*see Chapters 10, 14 and 15*). However, important constraints are still present in energy, transport and environmental infrastructures. *Overall*, the country needs to attract further investments to develop its infrastructures.

In 2011 some 0.4% of GDP was invested in research and development, compared to 0.1% a year before. The Ministry of Science, with the support of the World Bank, commenced the project on higher education research for innovation and competitiveness. The Ministry also supported five initiatives by Montenegrin teams to participate in EU research projects. The ministry also co-financed scientific professional training abroad, doctoral and master studies and the publishing of scientific papers in reference scientific journals. *Overall*, Montenegrin institutions have started to participate more actively in European research programmes although private sector participation still remains insufficient.

#### *Sector and enterprise structure*

The steel company, one of the country's two large metal producers, was eventually sold in June 2012 after several unsuccessful tenders. However, the situation of the aluminium plant (KAP) remains uncertain as the company still needs to go through major restructuring. Meanwhile, further progress was recorded in network industries. The liberalisation of the electronic communications market has been completed. In November 2011 the Law on Postal Services was adopted and the national postal service was converted into a joint stock company, laying the basis for the complete opening of this market. The energy market was further liberalised. In March 2012 the government adopted the restructuring plan for Montenegro Airlines. The opening of the air transport market has been formally achieved. However, although the legislative work for the opening of the railways and the maritime transport markets was initiated, it has not yet been concluded (*see Chapter 14- Transport policy*). *Overall*, the restructuring of network industries is facilitating the opening of their respective markets.

There has been little change in the sectoral structure of the economy. The services sector remains the largest, accounting for some 70% of GDP. Agriculture represents about 9% of GDP, industry 14% and construction 7%. The informal sector remains large and is fuelled by weaknesses in tax and expenditure policies, as well as in law enforcement. SMEs account for some 66% of total employment. SMEs are still confronted with difficult access to credit. Some financial relief continued to be provided through the Investment and Development Fund (IDF) which increased the number of loans and established a factoring facility. However, the

total amount of this support represented only 1.4% of total banks loans to private companies in 2011. The IDF project for development of business zones continues with the development phase in Podgorica and the selection of two new zones: in Berane and Kolasin. However, public sector financial cutbacks and organisational difficulties have led to a decline of support available to SMEs. The IDF established a credit guarantee scheme in April 2011, although no guarantees have been issued so far. *Overall*, the large informal sector and difficulties to obtain credit represent two major challenges for enterprise development.

#### *State influence on competitiveness*

Some progress has been recorded in the functioning and independence of regulators. In May 2012 the Agency for Electronic Communications and Postal Services instructed the incumbent operator to enable other companies to use the capacities of the cable infrastructure. Also in May, the Commission for the Control of Public Procurement annulled two important public tenders due to procedural irregularities, revealing increased independence despite the risk of interruption of the provision of medicines or internet services to the public administration. State aid was marginally reduced, from 2.3% of GDP in 2010 down to 2% in 2011. In May 2012 the Montenegrin Commission for State Aid Control ruled for the government to recover from the aluminium company € 30 million of state guarantees paid to a bank after the firm failed to service a loan. *Overall*, direct public support remains limited, but state guarantees are high and represent a risk for public finances.

#### *Economic integration and convergence with the EU*

Montenegro became a full member of the World Trade Organisation in April 2012. The total value of exports and imports of goods and services increased to 101% of GDP in 2011, compared to 94% a year before. However, the importance of the EU as the main trading partner has decreased somewhat, as the EU received 50% of total merchandise exports, compared to 56% a year earlier. The share of imports of goods from the EU fell moderately to 36%, from 38% a year before. The CEFTA market remains the second largest for Montenegro exports, receiving some 40% of its outbound trade in 2010 and 2011. The share of imports from CEFTA countries continued increasing, from 40% to 43%. Foreign direct investments decreased substantially in 2011. However, the share of EU investments expanded further, totalling 53% of total inflows into the country compared to 50% a year before. The Real Effective Exchange Rate (CPI-based) began to depreciate in 2011 (by 3.2%) after having stabilised the year before, thus marginally contributing to improved external competitiveness. *Overall*, while trade integration with the EU has somewhat slowed, the EU remains the main destination for Montenegro's exports and the main source for FDI.

## **4. ABILITY TO TAKE ON THE OBLIGATIONS OF MEMBERSHIP**

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

### **4.1. Chapter 1: Free movement of goods**

There has been no progress in the area of **general principles**. Some progress has been achieved in the case of **horizontal measures**. The new Law on Technical Requirements for Products and Conformity Assessment, the Law on Market Inspection and the Law on Inspection Surveillance were adopted in November 2011. Further alignment with the *acquis* remains to be achieved in both areas. The Law on Technical Requirements for Products and

Conformity Assessment is still non-compliant with the *acquis* in several aspects, e.g. in the meaning and terms of use of the CE marking.

In the area of *standardisation* good progress can be reported. The capacity of the Institute for Standardisation of Montenegro (ISME) is gradually improving, despite its limited financial and human resources. By the end of August 2012, ISME adopted 8409 European and international standards, and completed the public inquiry on 400 standards. 34% of adopted standards are harmonised standards in the meaning of the 'New Approach'. The compliance with the membership criteria of the European Committee for Standardisation (CEN) remains to be fulfilled. ISME still has to adopt most of its rules of procedure. The majority of internal rules remain to be adopted. ISME has established six new Technical Committees, bringing the total number to eight. An information service on standards was established in compliance with the *acquis*. Further investment will be required to develop a complete ICT system enabling real-time synchronisation on developing standards with CEN, the European Committee for Electrotechnical Standardisation (CENELEC) and the European Telecommunications Standards Institute (ETSI). The National Strategy for Standardisation has not yet been approved by the government.

Some progress can be reported in the area of *conformity assessment*. The new Law on Technical Requirements for Products and Conformity Assessment created a legal framework for conformity assessment for certain products even though the law still needs to be amended to be in line with the *acquis*. The requirements for the designation for the conformity assessment bodies have been decided, although they need to be further clarified and specified. Conformity assessment bodies (CABs) are still showing limited interest in becoming designated bodies despite the fact that two bodies were prepared to implement the functions of notified bodies. The new strategy on conformity assessment needs yet to be adopted.

Good progress can be reported in the field of *accreditation*. In November, the Accreditation Body of Montenegro (ATCG) became a full member of the European cooperation for Accreditation (EA). This was preceded by the adoption of new rules for cross-border accreditation, witnessing and information security. Three technical committees were established. The ATCG strengthened all its bodies, including the Accreditation Committee and the Complaints Committee, and accredited two more CABs, while revoking the accreditation of one CAB bringing the total number of accredited CABs to 19. The established Register of accredited CABs in Montenegro is well maintained and available on the internet. The ATCG has developed and implements a surveillance plan, including monitoring visits and re-assessment of accredited organisations. The application for the EA MLA (Multilateral Agreement) signatory status in the areas of testing laboratories and inspection bodies needs still to be prepared.

There has been progress in the area of *metrology*. After becoming a CGPM (General Conference on Weights and Measures) associate, Montenegro signed in October 2011 the CIPM MRA (Mutual Recognition Arrangement of the 'Comité International des Poids et Mesures'). Limited resources remain of concern, particularly with a view to the necessary calibration activities. A metrological traceability chain was established also in the remaining areas. The Bureau of Metrology set up a quality management system in line with the requirements of standard ISO/IEC 17025 for the laboratories of mass, length and temperature. These and the remaining metrology laboratories have yet to be accredited, and the strategy for metrology development adopted.

There has been good progress as regards *market surveillance*. In November, Montenegro adopted a Law on Market Inspection and the Law on Inspection Surveillance. The new Regulation, adopted in December 2011 and amended in 2012, on the organisation and method



of operation of the state administration established a single inspection authority called the Market Inspection (uniting 34 inspection services in charge of market surveillance of non food products) as an independent body. The head of the authority was selected in May, but not all old inspections have been integrated so far. The reform in the inspection service remains to be completed with the adoption of the necessary implementing legislation and the finalisation of the operational and procedural set-up of the authority. The revision of the General Product Safety Law and the planned new market surveillance law need to be pursued.

Coordination in the market surveillance area was strengthened. A Memorandum on Cooperation between the Market Inspectorate and the Customs Authority was signed in February 2012. The Coordination Body for Market Surveillance (CBMS) is taking the lead in ensuring smooth coordination. In March 2012, the CBMS adopted the 2012 National Programme for Market Surveillance, based on the individual annual market surveillance programmes of each inspection service. In April the government adopted the report of the Coordination Body for 2011 with a list of competences of different inspections by groups of products.

The Market Inspectorate improved the market surveillance methodology and internal operational rules, and substantially trained its staff. The newly introduced IT system allows the planning, recording and tracking of market surveillance operations to be improved and establishes a good basis for introducing a proper risk management system. A new web-page of the Market Inspectorate was launched at the end of 2011.

As regards the **‘Old Approach’ product legislation**, some progress was made with the adoption in November of the new Law on Pharmaceuticals and rulebooks on pre-packaged products and on bottles as measuring containers. The Agency for Drugs and Medical Devices established a reference laboratory for identification of forgeries and created a database providing information on relevant stakeholders. The Ministry of Transport and Maritime Affairs established a Department for Motor Vehicles to develop and ensure the adoption of technical regulations for the type approval of motor vehicles. The Law on Traffic Safety, regulating motor vehicles in use, has yet to be adopted, as does the new Law on Chemicals.

Little progress was registered in the area of **‘New and Global Approach’ product legislation**. Rulebooks on electromagnetic compatibility as well as radio equipment and telecommunications terminal equipment were adopted and entered into force in July.

In the area of **procedural measures**, no progress was made.

### *Conclusion*

Overall, Montenegro has made some progress in the area of free movement of goods. Additional efforts, better coordination and stronger ownership are needed to further align with the *acquis*. Overall, preparations in the area of free movement of goods are relatively advanced.

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

There has been no further progress in the area of **access to the labour market**. Existing legislation still requires work permits for EU nationals. To comply with EU law on the free movement of workers, EU nationals must not be subject to any work permit requirement as from accession. Preparations in this area are at an early stage.

There has been some progress regarding preparations for future participation in the European Employment Services (**EURES**) network, with the initial establishment of new administrative structures within the employment services, and training of potential EURES advisers. Preparations in this area have been launched.

There has been little progress in the field of **coordination of social security systems**. Montenegro has ratified a cooperation agreement with Slovenia and signed an agreement with Turkey. Negotiations are currently under way with the Slovak Republic, Bosnia and Herzegovina and Croatia. There was no progress towards strengthening administrative capacity. Preparations in this area are at an early stage.

There were no developments as regards the **European Health Insurance Card**. Preparations in this area still need to be launched.

#### *Conclusion*

Little progress has been made in the field of *freedom of movement for workers*. Overall, alignment with the *acquis* is still at an early stage.

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

There has been little progress in the field of the **right of establishment**. The implementation of recently amended legislation (on water, agricultural land, protection and rescue, geological research, electronic communication and spatial planning) faced some hurdles at local level. Following its establishment within the central registry of the Commercial court, the one-stop shop for business registration became an integral part of the tax administration in March. However, registration is not yet possible at the regional units of the tax administration. Electronic company registration became operational in May through e-government portal. Some progress has been achieved at central government level. However, additional efforts in implementing the reforms are still needed at local level.

As regards **freedom to provide cross-border services**, no progress can be reported on transposition of the Services Directive. Designation of a central body to coordinate its implementation and other related activities are at the planning stage.

Good progress can be reported in the area of **postal services**. A new Law on Postal Services was adopted in November with a view to further aligning the national legislation with the *acquis*. This law sets a new regulatory framework for postal services, providing for further liberalisation of the postal market and its full opening as of the beginning of 2013, which is in line with the timeframe of the ‘second group’ of countries under Directive 2008/6/EC (‘Third Postal Directive’). The law also provides for the independence of the national regulatory authority, sets up instruments for ensuring the sustainability of the universal postal service, and simplifies the procedure for issuing an authorisation. Legislative alignment is very advanced (with Directive 2002/39/EC, the ‘Second Postal Directive’) and only some minor issues are pending, which could be introduced in the envisaged implementing legislation. Montenegro’s postal service changed its legal status into a joint stock company in January and preparations are ongoing for a public-private partnership tender. The administrative capacity of the national regulatory authority remains limited.

There has been some progress in the field of **mutual recognition of professional qualifications**. The Law on Recognition of Foreign Qualifications for Access to Regulated Professions entered into force in April. The law partly transposes Directive 2005/36/EC on the recognition of professional qualifications by setting out the general framework for the recognition of foreign diplomas. There is still a need to strengthen administrative capacity.

#### *Conclusion*

Some progress can be reported on the right of establishment and freedom to provide services. Montenegro made good progress towards aligning the new law on postal services with the *acquis*. On the right of establishment, legislative reforms need to be implemented. Considerable efforts are still needed regarding the alignment of legislation with the Services

Directive, on mutual recognition of professional qualifications and as regards interinstitutional cooperation. Overall, preparations in this area are moderately advanced.

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

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

No legislative developments can be reported on free movement of capital or on **payment systems**.

With regard to the **fight against money laundering**, some progress can be reported. Amendments to the law on prevention of money laundering and terrorism financing were adopted in February. Further to the recently issued Financial Action Task Force (FATF) 2012 report, a new series of anti-money laundering initiatives will require further amendments to the existing legislation and strengthening of the administrative capacity.

Cooperation between the Ministry of Finance, the Administration for the Prevention of Money Laundering and Terrorist Financing (APMLTF), the Central Bank of Montenegro, the Securities and Exchange Commission and the Insurance Supervision Agency was improved by means of a Memorandum on cooperation and data exchange in the area of prevention of money laundering and terrorist financing, signed in December. The police are not a party to the Memorandum and the current arrangements for receiving information on suspicious transactions from the APMLTF are time-consuming and delay financial investigations.

Montenegro produces a low level of suspicious transaction reports and accounts for a large document flow (estimated at about 300,000 documents per year). Of the 34 reports of suspicious transactions (in the period September 2011–March 2012), 24 came from the banking sector. There have been very few convictions for money laundering.

The IT system of the APMLTF needs to be updated so that it can support the workflow effectively. There is a need to establish a clear IT policy, including plans to update and maintain the current hardware and obtain software allowing data analysis, and to allocate funds under the national budget.

Following the adoption of the rulebook on the internal organisation of the APMLTF in 2011, there was no further increase in the number of staff. One staff vacancy in this administration, which serves as the national Financial Intelligence Unit (FIU), was filled, bringing the total to 29 staff out of 38 posts assigned.

The administrative capacity of the supervisory authorities to conduct anti-money laundering inspections in the supervised institutions needs to be enhanced. Similarly, further efforts are needed to improve the awareness of the obligated sector to ensure adequate implementation of the anti-money laundering rules, and to enhance cooperation between the APMLTF, the regulators/supervisory bodies and the obligated sector in enforcing anti-money laundering legislation.

In January, the administration signed agreements on exchanges of financial intelligence data with Japan and Canada.

#### *Conclusion*

Little progress can be reported on free movement of capital although preparations are on track. Full alignment with the *acquis*, as regards payment systems and strengthening administrative capacity, mainly in the area of the fight against money laundering, will need to be further pursued. As regards combating money laundering and financing of terrorism, preparations are still at a relatively early stage. Major efforts are required to enforce

legislation, enhance inter-agency coordination and establish a track record on fight against money laundering and financial crime. Overall, preparations are on track.

#### **4.5. Chapter 5: Public procurement**

There has been good progress as regards the **general principles** applying to public procurement in Montenegro. The new law on public procurement and the related bylaws, which entered into force in January, aligned to a large extent the general principles with those of the EU *acquis*. The new law covers the remedies system, taking the alignment forward in this area. Further work is required to bring the legislation on concessions, utilities and defence procurement into line with the *acquis*.

In the second half of 2011, a number of implementing provisions were adopted. In order to strengthen procurement capacity and reduce the risk of conflicts of interest, the government adopted in December 2011 the Decree on the functioning of the state administration, which aims to transfer the management of the public procurement procedures of 34 independent and semi-independent bodies to the competent line ministry. The impact of the decree will be to reduce the number of contracting authorities and procurement procedures. Montenegro adopted a new strategy for public procurement for the period 2011-2015 in December 2011 and established a coordinating body to monitor its implementation. Resources for implementing the strategy still need to be ensured.

As regards the **award of public contracts**, some progress has been achieved with the entry into force of the new public procurement (PP) law. The helpdesk at the Public Procurement Directorate is operational. The Public Procurement Directorate launched a new portal on public procurement in January 2012, which publishes the procurement notices, award decisions and procurement plans of the contracting authorities. The system is only available in the Montenegrin language. It provides for more transparency but needs to be further developed.

The administrative capacity for public procurement continues to improve. The new rulebook on internal organisation and job descriptions of the Public Procurement Administration (PPA) was adopted by the government in November 2011. The staffing of the PPA is 14. The new organisation of the PPA envisages the establishment of the new inspection service, which is expected to monitor the regularity and timeliness of procedures for contracts below € 500,000. This complements a similar function of the State Commission for contracts with a value above € 500,000, and is independent of the general complaints review mechanism, which is also operated by the State Commission. The competences of the inspection service and its powers need to be clarified by precise implementing provisions, and sufficient staff needs to be allocated. Furthermore, clearer separation of the functions of the different units needs to be ensured to avoid any possible overlaps with the PPA's advisory and approval function. The PPA organised training activities to familiarise contracting authorities with the new PP law. Guidelines on the implementation of the new PP law were prepared and seminars were held on anti-corruption policy and the prevention of conflicts of interest. Yet further efforts in terms of training and additional staffing are needed to increase the enforcement capacity.

As regards the **remedies** system, good progress has been achieved with the system being covered by the new PP law. A new State Commission for the Control of Public Procurement Procedures (SCPP) was established on 23 February 2012. The new Commission has a staff of 6 and has obtained stronger powers and competences. A complaint fee of 1% of the contract value, with a maximum of € 8,000, has been introduced. Since its establishment until 14 September 2012, SCPP has performed 26 controls of public procurement procedures and the average time for completing a case was 10 days.

### *Conclusion*

Overall, good progress has been achieved in the area of public procurement. Implementation of the new legislation remains a concern. The legislative framework for concessions remains to be aligned with the *acquis*. The role, powers and competences of the future inspection services need to be clarified and sufficient staff provided. Preparations in the area of public procurement are moderately advanced.

#### **4.6. Chapter 6: Company law**

As regards **company law**, there were no further developments. The national legislation is largely aligned with the *acquis*.

As regards electronic signatures, the Root Certificate Authority at national level (Montenegro Post) issued more than 2,500 digital certificates, mostly to legal entities. Following the first wave of digital certificate issuance, the certificate authority receives 4-5 requests per day.

With regard to **corporate accounting** and **auditing**, there are no further developments. Work on the amendments to the Law on Accounting and Auditing is ongoing. The amendments are to establish an independent public oversight body for auditors and a quality control system.

### *Conclusion*

Little progress can be reported in the field of company law. New amendments to the Law on Accounting and Auditing, establishing an independent public oversight body for auditors and a related quality control system, are yet to be adopted. Overall, preparations are moderately advanced.

#### **4.7. Chapter 7: Intellectual property law**

In the area of **copyright and neighbouring rights**, the Regulation implementing the Copyright Law was adopted.

In the area of **industrial property rights** the Implementing Regulation on Trademarks was adopted in October 2011. The amended Trademark Law was adopted by the parliament in July. The Regulation implementing the Patent Law remains to be adopted.

The Regulation implementing the Law on Legal Protection of Industrial Design entered into force in March. Amendments to the Law on Legal Protection of Industrial Design have not yet been adopted.

In March, the Patent Law Treaty and the Vienna Agreement establishing the International Classification of the Figurative Elements of Marks entered into force in Montenegro.

Montenegro adopted the Law on Confirmation of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

Installation of the Industrial Property Automation System (IPAS) by the World Intellectual Property Office (WIPO) has started and will take one year to complete. This will delay improvements in workflow management and working procedures. The European Patent Office (EPO) has started installation of a database of patents which will replace the IPAS module originally planned. Both systems will improve workflow management and working procedures. Improvements have been made to the system of electronic archiving.

Investment in information technology (IT) equipment has been improved. However, the lack of IT competence and of sufficient financial resources impedes further progress, although the IPR capacity of existing staff is very good.

The decree on the organisation of public administration, adopted by the government in December 2011, recognises MIPO as an independent body. However, it limits significantly its independence as it concentrates the financial, procurement and other management functions in the Ministry of Economic Affairs. The decree also provides the framework for the establishment of the Inspection Directorate, which will include industrial property (IP). The decree entered into force in April 2012, but implementation remains to be achieved.

Regarding **enforcement**, the government adopted the national intellectual property strategy 2012-2015 in December 2011, with the aim of improving the enforcement of IP and achieving faster economic growth through its effective use. Sufficient resources and close monitoring will be crucial for the implementation of this strategy. The legal framework on enforcement needs to be streamlined and further aligned with the *acquis*.

The Commercial Court received 22 cases in the area of protection of property law. All cases have been processed. In two cases, the procedure was final and legally binding. In two procedures it was decided to continue the procedure.

The IPR enforcement capacity within the administrative and judicial system remains weak. There are no specialised IP courts in Montenegro, and the competent authority to appeal against a decision made by the IP Office is the Ministry of Economic Affairs. Another challenge is the lack of registered IP professionals able to represent legal or natural persons in proceedings before the competent authority. The IP Office does not currently maintain a register of selected representatives, and lawyers only need to be registered at the Montenegrin Bar Association.

#### *Conclusion*

Some progress can be reported in the area of intellectual property. Further efforts are needed to align with the *acquis* in this area and to implement it effectively in the medium term. Overall, preparations are moderately advanced.

#### **4.8. Chapter 8: Competition policy**

Regarding **anti-trust and mergers**, some progress has been made.

The Parliament adopted a new Law on Competition in July, with a view to further aligning the national legislation with the competition *acquis*. The new Law shall enter into force in October 2012. The new Law provides for the establishment of an operationally independent agency within 90 days from the entry into force of the law. The adoption of the implementing provisions remains to be finalised.

The enforcement record in this area is slightly improving.

The Authority for Competition Protection (ACP) adopted 13 decisions authorising proposed mergers in 2011 and five for the first months of 2012. One notification was revoked due to withdrawal and two cases are under investigation. All mergers were authorised without remedies. As regards abuse of a dominant position, the ACP dealt with seven cases in 2011 and six cases in the first seven months of 2012. Two cases for the whole period started ex-officio and six cases were suspended. Two cases are still under investigation. In five cases, the ACP adopted decisions finding that firms had abused their dominant market positions. One decision of 2011 was annulled by the administrative court on procedural ground. The ACP also carried out a number of surveys. The administrative capacity of the ACP needs to be enhanced and the enforcement record improved.

In the area of **State aid**, progress was made. Amendments to the Law on State Aid Control were adopted in November to better align the national legislation with the *acquis* and to strengthen the operations of the State Aid Control Commission (SACC). In December, the

government took a decision requiring all legal acts on the basis of which State aid may be granted to be submitted to the SACC for evaluation of their compliance with the Law on State Aid Control, prior to their submission to the government. The rulebook on the contents of the annual report on State aid granted was revised to include more precise instructions on the method for analysing the effectiveness of State aid granted. In July the Parliament adopted the 2011 Report.

Seven sectoral laws were amended and aligned with the State aid *acquis* by the end of December 2011. However, the Law on Ports still needs to be adopted. The government adopted its Decision on the Regional Aid Map in March 2013. The State aid inventory, available on the newly established SACC website, is regularly updated with its decisions.

The SACC took 14 decisions in 2011 and 10 in the first half of 2012. Out of the 24 cases, 18 resulted in decisions finding the measures compliant, one resulted in a decision finding that the measure was non-compliant and in four cases it was concluded that the notified aid did not constitute State aid as per the provisions of Article 2 of the Law on State Aid Control. The SACC has started three 'ex officio' investigations, two of which have been concluded (one with a Decision on compliance and one with a Decision on recovery of State aid) and one is still pending. In June, the SACC is expected to deliver the 2011 Annual report on State aid control.

Aid measures to the sensitive sectors need to be brought in line with Montenegro's obligations under the Stabilization and Association Agreement, particularly as regards the aluminium plant KAP and sensitive sectors.

#### *Conclusion*

Some progress has been made in the area of competition. Further efforts are needed to align Montenegro's legislation with the *acquis* and to ensure the operational independence of the competition authority. Special attention needs to be given to the enforcement of State aid rules, particularly in the areas of State aid to the sensitive sectors. Overall, preparations in the field of competition policy are moderately advanced.

#### **4.9. Chapter 9: Financial services**

There has been some progress in the area of **banks and financial conglomerates**. A Decision on Public Disclosure of Information and Data by Banks was adopted. It brings the Central Bank Regulation in line with Directive 2006/48/EC, thus implementing Pillar III of the Basel requirements. The Decision on Bank Reporting to the Central Bank pursuant to the Banking Law was amended to harmonise reporting forms for own funds and capital requirements for risks with the new Capital Adequacy Decision.

The Decision on Large Exposures of Banks, adopted by the Central Bank in March, further aligns the national legislation with the *acquis* on calculation and treatment of large exposures. The Decision on Minimum Standards for Credit Risk Management in Banks, together with the guidelines for identifying connected parties, was adopted by the Central Bank in April and will come into force as of the beginning of 2013.

A Decision on the Establishment of the Advisory Committee, as the standing advisory body of the Central Bank Council, was adopted in October 2011. Members of the Advisory Committee have to be Montenegrin or foreign citizens with recognised professional experience. Alignment with the new *acquis* on deposit guarantee schemes remains to be achieved.

There has been little progress in the area of **insurance and occupational pensions**. On the basis of the law on compulsory vehicle insurance, the Insurance Supervision Agency adopted

the rulebook on the content of the form of the insurance policy for motor vehicle liability. The Decision on Determining Level of Border Insurance was adopted. A new insurance law transposing the relevant EU directives remains to be adopted. The insufficient administrative capacity of the Insurance Supervision Agency remains an issue of concern.

There has been little progress as regards **financial market infrastructure**. The Law on Financial Collateral was adopted by the government in March.

Some progress can be reported in the area of **securities markets and investment services**. The Law on Investment Funds was adopted in November, regulating the conditions for the establishment and operation of investment funds and managing companies of investment funds and other issues relevant for the functioning of investment funds. It is partially aligned with the 2009 Directive on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS). The Securities Commission, the trade regulatory and supervisory body in Montenegro, also adopted 12 regulations for the implementation of the funds.

The Securities Commission adopted Rules on Business Secrets, aiming at harmonising the legislation with the *acquis* on Markets in Financial Instruments Directive, and Rules on the content, deadlines and the method of publishing of financial reports by the issuers of securities.

#### *Conclusion*

There has been some progress in the field of financial services. Progress has been made in adopting legislation on public disclosure of information and data by banks, on calculation of large exposures and on UCITS. Substantial efforts are required to align with and implement the existing *acquis* in the areas covered by this chapter. Overall, the level of alignment remains moderately advanced.

#### **4.10. Chapter 10: Information society and media**

Progress can be reported in the field of **electronic communications and information and communications technologies (ICT)**. The administrative capacity of the Agency for Electronic Communications and Postal Services (EKIP) has improved. After completing the first round of market analyses and further analysing five additional markets in 2011, EKIP has made progress in implementing competitive safeguards, including reference offers for interconnection and wholesale broadband access published by the incumbent, number portability in fixed and mobile markets and regulatory obligations enabling national roaming and access to mobile virtual network operators. There are three competing mobile operators in the country, while the incumbent dominates both the fixed telephony and broadband markets (having 81% of broadband connections). At the end of 2011, the fixed broadband penetration rate per population was moderate at 13.6%. As for rights of way, the market players continue to face administrative difficulties in deploying fixed and mobile networks. The appellate and supervisory powers of the Ministry of the Information Society and Telecommunications over EKIP still endanger the regulator's independence. EKIP has also launched an appeal before the Constitutional Court against recent legislative amendments whereby the power of appointing the board of EKIP was transferred from the government to the parliament, as the new rules provide for the automatic dismissal of the board and EKIP's executive director if its financial report is not approved by the parliament.

Montenegro has started to address its priorities in this area.

As regards **information society services**, good progress can be reported. Legislation implementing the Law on Electronic Signature has been adopted, as well as a new national strategy for information society development 2012–2016 containing specific strategies on



electronic communications and broadband development. The information society strategy identifies the growth of broadband as a key national priority, projecting to achieve the Digital Agenda for Europe objectives by 2016. A Computer Emergency Team (CERT) has been established. A law on e-governance is under preparation. There has been no progress in further aligning the Law on e-Commerce with the *acquis*. Preparations in this area are on track.

Little progress has been made in the area of **audiovisual policy**. The public broadcaster is undergoing a structural reform, aimed at ensuring its financial independence and sustainability and reaching the European standards for public service broadcasting. Amendments to the Law on Electronic Media have been adopted, requiring the Agency for Electronic Media to submit operational and financial plans and reports to parliament for approval. This clearly undermines the independence of the Agency. Although the Agency for Electronic Media has slightly increased its capacities with respect to monitoring of media, it still fails to monitor it outside the capital. Amendments to the Law on Digital Broadcasting were adopted by the Parliament in June 2012 whereby the digital switchover process has been postponed with a new deadline of 17 June 2015. This raises potential concerns about the timely implementation of the digitalisation process. Despite the fact that the new management of the state broadcaster RTCG has made significant efforts to improve the quality of programmes and has boosted ratings, the key challenges remain restructuring and digitisation of the radio and television stations. Preparations in this area have started.

### *Conclusion*

There has been some progress in the field of information society and media. However, independence of the regulatory bodies has been undermined by amendments to the legislation. Overall, preparations are moderately advanced.

## **4.11. Chapter 11: Agriculture and rural development**

In the area of **horizontal issues** there has been little progress. During the reference period, the national statistics body Monstat published further booklets on agricultural data, concluding the findings from the 2010 agriculture census. The bulk of the agricultural budget for 2012 remains targeted at direct support measures linked to production. While some efforts are being made to de-link from production, support measures will gradually need to be brought more into line with EU rules, decoupling them from production. Support for rural development measures is increasing due mainly to grant support under a World Bank project.

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

Some progress has been made in the field of **rural development**. The rural development programme under the Instrument for pre-accession (IPARD) was submitted; however it still needs to be further amended before adoption. Within the Ministry of Agriculture and Rural Development, the sector for rural development was appointed as the Managing Authority and the sector for payment as the IPARD agency. Establishment of the management and control system under IPARD is slow. Resources are very limited and the appointment of staff to the IPARD operating structures is not very advanced. The administrative capacity and the legal framework are not yet sufficiently prepared to meet the objectives of the national action plan towards IPARD accreditation. Preparations are at an early stage in this area.

There has been progress in the field of **quality policy**. Following the adoption of the Law on Geographical Indications in 2011, a guide to registration procedures has been prepared for advisors and producers. Further implementing legislation is in the pipeline and efforts need to continue to provide information about and encourage active participation in the schemes. Preparations in the area of quality policy are moderately advanced.

Progress is being made in the area of **organic farming**. A national action plan for organic production in the period 2012–2017 was adopted to support the development of organic farming and the processing and consumption of organic products in the domestic market. A Law on Organic Production has been adopted. Preparations in the area of organic farming are moderately advanced.

#### *Conclusion*

Progress has been made in the area of agriculture and rural development. Efforts are needed to develop an appropriate legal framework to meet the objectives of the national action plan towards accreditation for the management of rural development funds. Overall, alignment with the *acquis* is at a very early stage in this area.

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

Little progress can be noted as regards **general food safety**. Training of staff covering numerous thematic areas in the food safety field has been provided. Still, the Law on Food Safety remains to be adopted. Amendments to the Law on Inspection Surveillance were adopted, establishing a unified body responsible for veterinary and phytosanitary inspections, though concerns on efficiency remain. Preparations in this area of the *acquis* are at an early stage.

Progress has been made in the area of **veterinary policy**. The programme on the eradication of rabies has started. Training of veterinary staff continued. Montenegro adopted a new Veterinary Law. Increased effort is needed to adopt animal disease contingency plans and the comprehensive programme for controlling and monitoring transmissible spongiform encephalopathy. Preparations in the field of veterinary policy are at an early stage.

With regard to the **placing on the market of food, feed and animal by-products**, no progress can be reported. Preparations in this field are at an early stage.

There was limited progress in the implementation of **food safety rules**. Montenegro has adopted a monitoring programme for pesticide residues in food of animal and plant origin and a programme for monitoring residues of veterinary medicinal products. Preparations in the area of food safety rules are not very advanced.

No progress can be reported as regards **specific rules for feed**. Legislation on feedingstuffs intended for particular nutritional purposes and on certain products used in animal nutrition still needs to be adopted. Preparations in the area of specific rules for feed are at an early stage.

There has been some progress with regard to **phytosanitary policy**. Amendments to the law on seed materials of agricultural plants were adopted with a view to aligning it with the *acquis*. Rulebooks on phytosanitary measures to prevent the introduction and spread of several harmful organisms have been adopted. The Plant Pathology Laboratory started applying the compatibility methods for the identification of certain harmful organisms. The administrative capacity of the phytosanitary inspectorate has been strengthened through the recruitment of one additional phytosanitary inspector. Training of staff continued. Preparations in the area of the phytosanitary sector are moderately advanced.

No progress has been made with regard to alignment and implementation of the *acquis* in the area of **genetically modified organisms (GMOs)**. Preparations in this area still need to be launched.

### *Conclusion*

There has been limited progress in the field of food safety, veterinary and phytosanitary policy. Efforts are needed in all aspects of this policy area, in particular with regard to further alignment with the *acquis*, the reinforcement of control capacity in the veterinary field, and the assessment of hygiene standards in food and feed establishments. Overall, alignment with the *acquis* in this area remains at an early stage.

#### **4.13. Chapter 13: Fisheries**

No progress can be reported as regards further alignment of the relevant legislation with the fisheries *acquis*. The administrative capacity of the fisheries unit in the Ministry of Agriculture and Rural Development has been strengthened by taking on two additional advisors.

As regards **resource and fleet management**, limited progress can be reported. The fishery information system has been further developed. Staff of the Institute of Marine Biology were trained in assessing the biological state of the fish stocks. Efforts continued towards setting up a vessel monitoring centre. Preparations in this area of the *acquis* are at an early stage.

There has been limited progress in the area of **inspection and control**. The fishery inspectors received training to improve their abilities to inspect and monitor fishing activities in accordance with the relevant EU Regulations and practices. However, the capacities of the fishery inspectorate remain limited. Increased efforts are needed to ensure the systematic processing of data from logbooks, adequate registration of catches and landings, the use of sales notes and systematic cross-checking between catch composition and logbook records. Preparations in the area of inspection and control are not very advanced.

In the areas of **structural actions, market policy and State aid**, no progress has been made. Preparations in these areas are still to be launched.

Montenegro has concluded no new **international agreements** on fisheries. There have been no developments regarding Montenegro's application to join the International Commission for the Conservation of Atlantic Tunas (ICCAT). Montenegro has started to address its objectives.

### *Conclusion*

Some progress was made in the field of fisheries. Efforts are needed with regard to alignment of legislation with the fisheries *acquis*, and implementation of EU standards, in particular in the areas of resource management, inspection and control, market policy, structural policy and State aid policy. Overall, preparations in this area are at an early stage.

#### **4.14. Chapter 14: Transport policy**

Good progress can be reported on **road transport**. The road fees for foreign-registered cars and the eco-tax for heavy vehicles were repealed. Montenegro adopted in December the action plan for implementing the road safety strategy for 2012, but the new law on road safety has yet to be adopted. Further alignment with recent road safety and dangerous goods *acquis* is still necessary. Implementing legislation on driving time, rest periods of drivers and recording equipment for road transport was adopted, as well as on road marking, driving licences and fees for oversized and overweight vehicles. In March, Montenegro began issuing memory cards for digital tachographs in line with the obligation arising from the Agreement on the work of crew vehicles engaged in international transport and the *acquis*.

There has been some progress in the area of **rail transport**. With regard to the strategy of restructuring of the railway of Montenegro, two phases have been completed. Infrastructure

charges for passenger trains were published in the network statement for year 2012. However, Montenegro still needs to transpose the interoperability directive. The administrative capacity of the newly established Railway Directorate was strengthened, but the independence of the rail regulatory body from the line ministry needs to be secured. As regards to the border crossing agreements, further alignment with EU legislation needs to be made for the agreement with Serbia, while an agreement with Albania still needs to be signed.

There is no **inland waterway transport** in Montenegro.

No progress can be reported on **combined transport**.

In the area of **air transport**, good progress took place with regard to implementing the European Common Aviation Area (ECAA) Agreement, with the adoption of the new Civil Aviation Law, covering crucial issues such as safety, security and air traffic management. Furthermore, two conventions of the International Civil Aviation Organisation (ICAO) were ratified.

In the area of **maritime transport** good progress has been made. The transfer of competencies for providing ship inspection services and issuing relevant certificates for vessels registered under the flag of Montenegro to the International Association of Classification Societies continued. As regards the Paris Memorandum of Understanding on Port State Control (PMoU), Montenegro achieved a 0% detention rate in 2011, but it still needs to make progress in order to become a full member of the PMoU.

An accident investigation body for rail, air and maritime transport still remains to be established.

No progress can be reported on **satellite navigation**.

#### *Conclusion*

There has been good progress in the area of transport, in particular as regards road, rail and maritime transport, but there is a need to ensure effective implementation of the *acquis*. Further progress remains to be made in the rail transport sector concerning inter-operability, setting up an accident investigation body, as well as the independence of the rail regulator. Overall, preparations in this area are advanced.

#### **4.15. Chapter 15: Energy**

Montenegro still needs to finalise an update of the energy development strategy and of the action plan for the period until 2030.

No progress can be reported in the area of **security of supply**. A decree on mandatory strategic stocks of oil and petroleum products has been developed, but adoption is yet to be finalised.

There has been some progress in the area of the **internal energy market**. The Energy Regulatory Agency adopted implementing legislation which fulfils some of the preconditions for establishing a functioning energy market and increasing the energy sector's competitiveness. Permanent tariff methodologies for transmission, distribution and final consumers, applying incentive-based regulation for the first time in Montenegro, set the basis for efficient price regulation. However, the tariffs are not fully cost-reflective. All eligible customers connected to the distribution system remain entitled to be supplied at regulated tariffs. The distribution company remains integrated in the Montenegrin Electric Power Company (EPCG), and the deadline for its legal unbundling is the end of 2012. In January 2012 the Market Operator (COTEE Ltd.) was established as a separate legal entity. Market rules were approved by the regulator in July 2012. New and non-discriminatory rules for

allocation of cross border capacity have been introduced. There has been no progress with regard to the development of a gas market in Montenegro. Montenegro needs to start preparing for alignment with the EU's 'third internal energy market package'.

Some progress can be reported as regards **renewable energy** sources (RES). Montenegro adopted implementing legislation based on the Energy Law for the promotion of electricity produced from renewable energy sources in the internal electricity market, including the establishment of differentiated feed-in tariffs. The work programme for the use of renewable energy sources (RES) over a ten-year period has yet to be adopted. The implementation of projects for small hydro power plants is progressing as planned. As regards the hydro power plant on the Morača River, the tender for the construction work failed, as no bid was received by the extended deadline of 30 September 2011. The existing Memorandum of Understanding between the Montenegrin government and the Italian company A2A allows for the possibility for EPCG to build the plants, and EPCG presented a technical solution for this project in January. There is a successful ongoing project providing 0% interest bank loans for solar water heating to households.

There was little progress in the field of **energy efficiency**; a revision of the energy efficiency legislation is under preparation, in order to ensure alignment with the *acquis*. The government adopted an operational plan for improving the energy efficiency of the state administration bodies for 2012.

Good progress has been made regarding **nuclear energy, nuclear safety and radiation protection**. The strategy for protection against ionising radiation, radiation safety and radioactive waste management with an accompanying action plan was adopted in September 2011. In November and December 2011, rulebooks were issued on conditions for obtaining a permit for the management radioactive waste storage and methods of collecting, processing and storing radioactive waste, respectively. In addition, a programme on systematic examination of radioactivity in the environment for the year 2012 was adopted.

The country submitted to the International Atomic Energy Agency its first National Report under the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. Also, this document is one of the commitments stemming from the Joint Convention on the safety of spent fuel management and the safety of radioactive waste management. The first National Report and Declaration on Nuclear Materials, stemming from the agreement with the International Atomic Energy Agency, was adopted in December 2011. Following public debates, Montenegro issued in June 2012 its first license for a radioactive waste storage facility. As regards administrative capacity, the Environmental Protection Agency established a new department responsible for radiation safety and protection against ionising radiation. This department currently employs 10 people.

### *Conclusion*

Some progress can be reported in the area of energy. Additional implementing legislation for the internal energy market remains to be adopted. Montenegro still needs to adopt the necessary acts concerning oil stocks reserves, as well as the ten-year work programmes on the development of RES. Overall, alignment with the *acquis* is at an early stage in this area.

## **4.16. Chapter 16: Taxation**

Little progress can be reported as regards legislative alignment with the *acquis* in the area of **indirect taxation**, especially as regards *VAT*. Legislation on deferred payment of customs debt (duties and VAT) entered into force in January 2012. Amendments to the law on *excise duties* entered into force in January and April 2012, reducing excise duties on diesel fuel, increasing the rates on cigarettes and alcoholic drinks, and introducing this tax for coffee and

carbonated soft drinks. Further improvements remain to be made in order fully to align the structure, scope and level of excise duties with the *acquis*. Preparations in the area of indirect taxation are at an early stage.

Little progress was made in the area of **direct taxation**. Amendments to the personal income tax law, the corporate profit tax law, and the law on mandatory social contributions were adopted in February 2012 with the aim of aligning tax relief provisions with State aid rules and introducing a more detailed procedure for the taxation of capital gains. Preparations in the area of direct taxation are at an early stage.

Little progress can be reported as regards **administrative cooperation and mutual assistance**. An agreement with Serbia on avoiding double taxation has been ratified. In due time, Montenegro will have to align with the EU legal framework for administrative cooperation with EU Member States and prepare for putting into operation the Central Liaison Office (in the Tax Administration) and the Excise Liaison Office (in the Customs Administration). Preparations in this area still need to be launched.

There has been some progress in **operational capacity and computerisation** of the tax administration, which underwent major organisational and structural changes through reinforcement of the IT department and the creation of a large taxpayers unit. There has been progress in developing the internal control system by establishing a separate department for internal control, with clearly defined procedures for internal control and the fight against corruption. The IT sector remains understaffed and lacks training with a view to the preparations needed for interconnectivity and interoperability with the EU systems. Further efforts are needed to upgrade the administration's management capacity, especially on the strategic level. To develop the mandatory VAT Information Exchange System and the Excise Movement Control System, an overall functional business and IT strategy needs to be established, endowed with sufficient budget and accompanied by action plans. Preparations in this area are not very advanced.

### *Conclusion*

Little progress was made in the area of taxation, with developments consisting primarily in the establishment of new departments within the tax administration. Further efforts are needed to develop an overall business and IT strategy. Overall, in the area of taxation, Montenegro's alignment with the *acquis* is at an early stage.

## **4.17. Chapter 17: Economic and monetary policy**

As regards **monetary policy**, there was no progress in further alignment of the Central Bank law with the relevant EU legislation. The Central Bank legislation still needs to be aligned with the *acquis* on withdrawal, replacement and destruction of worn-out banknotes and coins. Institutional and personal independence, especially of the Governor of the Central Bank, needs to be safeguarded. The Insurance Act provides privileged access for the state to financial institutions. The fact that Montenegro is using the euro as its sole legal tender, and has therefore abandoned standard monetary policy tools, leaves fiscal policy as the main effective policy instrument.

In the area of **economic policy**, Montenegro submitted its first pre-accession economic programme (PEP) to the European Commission in January, covering the period 2012-2014. The PEP has taken over the role of the former EFP as a policy coordination instrument and has contributed to the preparation of the main national fiscal documents. It presents recent macroeconomic developments and a comprehensive medium-term macroeconomic and fiscal framework, with a broad range of structural reform areas. The PEP meets EU requirements on format and content. However, it fails to provide in-depth analysis of external sustainability

and competitiveness issues. The capacity for economic policy formulation and coordination needs to be further strengthened.

Further work is needed to improve fiscal reporting and to align with ESA95 standards.

#### *Conclusion*

There was some progress in the area of economic and monetary policy. Substantial efforts still have to be made to complete alignment with the *acquis*, in particular regarding the Central Bank's independence, monetary financing and privileged access of the public sector to financial institutions. The capacity for economic policy formulation and coordination needs to be further strengthened. Montenegro's present use of the euro, decided by the Montenegrin authorities in exceptional circumstances, is fully distinct from euro-area membership. Overall, the level of alignment in the area of economic and monetary policy is moderately advanced at this stage.

#### **4.18. Chapter 18: Statistics**

There has been good progress on **statistical infrastructure**. The new law on official statistics and the official statistical system of Montenegro was adopted in March, with a view to ensuring compliance with the European Statistics Code of Practice.

The lack of sufficient human resources and office space remains an issue of concern. Monstat currently employs 98 people and a recruitment procedure for 11 new employees was launched.

As regards **classifications and registers**, some progress has been made. The NACE Rev. 2 classification has been implemented in several domains, including for agricultural, financial and short-term statistics.

There has been good progress in **sectoral statistics**. Progress has been made on national accounts. The compilation of sectoral accounts for 2009 and 2010 is under preparation. The experimental calculation of quarterly GDP in constant and current prices was completed.

As regards short-term statistics and the Harmonised Index of Consumer Prices, further improvements were made. Monstat published the first results of the new survey on use of information and communication technologies in Montenegro as well as the results of the new survey on industrial waste. Monstat has carried out the pilot survey for Statistics on Income and Living Conditions (EU-SILC). The regular SILC survey will start in 2013 and will provide data for the structural indicators of social cohesion. Monstat widely published data from the Population and Housing Census and the final results of the Agricultural census. Further efforts are needed as regards the transmission of data to Eurostat. In general, Monstat needs to improve sectoral statistics.

#### *Conclusion*

Good progress can be reported in this area. Montenegro still has to make serious and sustained efforts to align with the *acquis* as regards agricultural, business and macroeconomic statistics. Overall, preparations in the area of statistics are moderately advanced.

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

There has been good progress in the area of **labour law**. Amendments to the Labour Law were adopted in November 2011 with the aim of aligning it with the *acquis*. The law on peaceful settlement of labour disputes was also amended in November 2011 with a view to making the settlement of labour disputes more efficient and safer. The selection and training of staff for the Agency for peaceful resolution of labour disputes has been finalised and

capacity building improved. However, implementation and enforcement of the legislation remains a serious challenge. Preparations in this area are on track.

There has been little progress in the area of **health and safety at work**. A Directorate for Inspection Affairs was established in July including the Inspection of Labour. The training of labour inspectors and social partners engaged in occupational safety and awareness-raising activities have continued. Inspection capacity has somewhat improved, and the total number of fatal, serious and collective injuries at work went down in 2011 compared to 2010. There has however been no progress as regards legal alignment and the number of labour inspectors remains insufficient. Only nine out of the 12 positions for labour inspectors dealing with occupational health and safety are filled. This represents an approximate ratio of one inspector per 23,555 workers (while the ILO recommendation is for one inspector per 10,000 workers). The Agency for Health and Occupational Safety has not been established yet. Preparations in this area are at an early stage.

There has been little progress as regards **social dialogue**. Trade unions' membership of the Social Council has been aligned on their representativeness. This should improve the consistency of the procedure to determine representativeness at different levels (national and branch level), remove employers' insight into trade union membership and address the previous data protection problems. Negotiations on a new General Collective Agreement have not been concluded. The capacities of the Social Council have not been strengthened. The Social Council secretariat provided by the law has not been set up yet due to lack of funding. Only three social councils at municipal level are functioning properly. Concerns remain as to the effective recognition of all trade unions. Bipartite social dialogue still remains underdeveloped. Preparations in this area have started.

Little progress has been made in the area of **employment policy**. A national strategy for employment and human resource development for the period 2012–2015 and a national action plan for employment for 2012 were adopted in December 2011. Changes to the provisions on fixed-term contracts should contribute to reducing labour market duality. The labour market situation deteriorated in 2011 and there has been no tangible improvement in 2012. Unemployment continued to increase and is at 20 %, and the labour market participation and employment rates remained at their low levels (at around 57% and 46% respectively). Registered unemployment significantly underestimates the number of actual jobseekers. High gender and regional gaps in activity, employment and unemployment persist. Only a third of the unemployed receive unemployment benefits. As a consequence of the crisis and rising unemployment, more resources had to be allocated to cash benefits and the financial allocations to active labour market measures were reduced. Nonetheless, some 41% of the registered unemployed benefited from active support and Montenegro maintained its broad range of active labour market programmes. Their impact needs to be better monitored. A Law on Vocational Training of University Graduates was adopted by the Parliament in July 2012 providing traineeships for young unemployed professionals without working experience. However, in general, skills mismatches remain a serious issue. As regards undeclared work, an operational Plan for combating the grey economy was adopted by the Government in May 2012. Preparations in this area are at an early stage.

There has been limited progress in preparations for the **European Social Fund**. An Operational Programme has been prepared. However, administrative capacity within the line ministries involved is still insufficient, in terms of both numbers of staff and expertise. Preparations in this area have started. (*See also Chapter 22 — Regional policy and coordination of structural instruments*)



Little progress has been made on **social inclusion**. The transition from institutional to community-based care is at an embryonic stage. Progress in implementing the measures set out in the strategic plans adopted for poverty reduction, Roma, people with disabilities and other socially excluded people is being hindered by the lack of adequate human and financial resources. Preparations in this area are at an early stage.

As regards people with disabilities, an action plan for implementing the strategy for integration of people with disabilities 2012–2013 was adopted in March. The Council for protection of people with disabilities is functional and currently recruiting new staff. However, the Law on Prohibition of Discrimination of People with Disabilities still presents shortcomings. There has been little progress as regards employment of people with disabilities. Access to buildings remains a concern. *(See also Political criteria — Economic and social rights)*

No progress can be reported in the field of **social protection**. Progress in the field of administrative and fiscal decentralisation of social services remains limited. Funded pension schemes based on mandatory savings have not yet been introduced. Funding for the current pension system is not sustained. Preparations in this area are at an early stage.

There has been some progress in the area of **anti-discrimination**. The Council for protection against discrimination is now operational, and its financial and administrative capacities have been strengthened. Fifteen members of the Council were appointed in February, including representatives from the Roma community and one member representing civil society organisations dealing with lesbian, gay, bisexual and transgender (LGBT) rights. Anti-discrimination campaigns and training for civil servants have continued. Authorities have continued to actively promote a positive environment for LGBT rights, but cases of discrimination against the LGBT community still occur. The national legislation still presents several shortcomings, e.g. concerning the Ombudsman's independence. Neither is the anti-discrimination legislation in line with the *acquis* as regards definitions. Involvement of the Ombudsman's Office in this area still remains limited despite the appointment of new staff. Preparations in this area are on track. *(See also Political criteria — Economic and social rights)*

Some progress can be reported on **equal opportunities**. Amendments to the Labour Law adopted in November introduce parental leave for the first time as a concept distinct from maternity leave. Several activities on gender equality have been carried out at local level, mainly by civil society organisations. Financial and human resources for efficient functioning of gender equality mechanisms and for implementation of the activities foreseen by the Gender Equality Action Plan remain too limited. Roma women experience double discrimination — as members of a minority group and as women. Montenegro has started to address its priorities in this area. *(See also Political criteria — Economic and social rights)*

### *Conclusion*

Some progress has been made in the area of social policy and employment. Further efforts are needed in the area of health and safety at work. The capacity of the Public Employment Service also needs to be strengthened, along with activation approaches in order to address low activity and employment rates and the mismatch between the skills available and needs. Measures and policies for poverty reduction and for Roma inclusion need to be strengthened. The situation of public finance continues to adversely affect reforms in the social area. Increased efforts are needed to implement the planned reforms in the area of pensions. Overall, Montenegro has started to address its priorities in this area.

#### 4.20. Chapter 20: Enterprise and industrial policy

There has been little progress in the area of **enterprise and industrial policy principles**. The action plan for implementing the strategy for the development of small and medium-sized enterprises 2011-2015 has not yet been adopted. The coordination, monitoring and implementation capacities in this area are not yet fully established. Following the National Partnership for Entrepreneurial Learning Council meeting in December, no further development can be reported as regards the drafting of an action plan 2012-13 for implementing the strategy for lifelong entrepreneurial learning 2008-2013. There has been no further progress as regards the coordination of various institutions to secure the effectiveness of the strategies in force.

The company registration process has been unified, eliminating the need for municipal registration, and a single identification number — the Tax Identification Number — has been introduced. Company and tax registration are conducted simultaneously. Online registration is under preparation. Montenegro still lacks a centralised online portal for SMEs.

The government decided to introduce Regulatory Impact Assessment for sub-legal acts from January. Training has been provided in this respect. The issue of how the Regulatory Impact Assessment will be systematically and effectively implemented remains to be determined.

Business services need to be further improved and diversified. The current SME voucher scheme is a positive step in this direction.

There has been no progress in the area of **enterprise and industrial instruments**. Montenegro continues to participate in the Entrepreneurship and Innovation Programme, in particular in the Entrepreneurship and Innovation specific Programme (EIP). The Investment and Development Fund (IDF) continued its funding operations, mainly via loans. Its credit guarantee scheme has not yet issued any guarantees. There is not yet any assessment of the effectiveness of IDF instruments.

The Decree on the organisation of the public administration was adopted in December, stipulating that the SME Development Directorate (SMEDD) falls under the supervision of the Ministry of Economic Affairs. No further progress can be noted in the coordination of institutional support to SMEs between the Ministry of Economic Affairs, the Directorate for Development of SMEs (SMEDD), the Chamber of Commerce and the relevant financial institutions (IDF, micro-credit providers and commercial banks). The lack of capacity, the involvement of stakeholders at central and local level in SME development, and access to finance are some of the areas of concern to be tackled in developing the private sector.

Assessment of the existing **sectoral policies**, necessary for formulating future industrial policy, is still lacking.

##### *Conclusion*

There has been little progress in the area of enterprise and industrial policy. Various strategies and institutions exist, however, further efforts are needed to ensure the development and the implementation of this policy.

#### 4.21. Chapter 21: Trans European Networks

Some progress can be reported in the area of **transport networks**. Montenegro has continued to participate in the Memorandum of Understanding on the development of the South East Europe Regional Transport Network, which has now been included (as indicative) in the European Commission's proposal for the revision of TEN-T guidelines. Upgrading road and rail links included in the SEETO comprehensive network remains a priority.

As regards the preparations for developing the Bar-Boljare motorway project (SEETO route IV), a study reassessing a number of technical options for project implementation from the point of view of the economic viability of the project has been developed with support from the European Investment Bank. As regards the port of Bar, the cargo terminal and general freight was included in the 2012 privatisation plan. Before relaunching the procedure, the government has taken a loan from the EBRD to purchase equipment necessary for terminal operations and to finalise the social redundancy programme for voluntary staff departures. These are seen as crucial preconditions in attracting interest in this privatisation.

There has been some progress in the area of **energy networks**. As regards the underwater interconnection cable with Italy, project implementation continues. The implementation of a project for a 400 kV overhead line linking the coast (Lastva) with the north of the country (Pljevlja) is ongoing. There were no developments with regards to the development of a natural gas strategy. Montenegro participates in the Interstate Committee established by the members of the Energy Community who signed a Memorandum of Understanding and Cooperation with Trans-Adriatic Pipeline AG. A comprehensive feasibility study on the Trans-Adriatic Pipeline project was launched in February.

### *Conclusion*

Some progress has been achieved in the area of Trans-European Networks. As regards the transport networks infrastructure, significant work remains to be done on improving road and rail links. Gas interconnections with neighbouring countries need to be developed and the national transmission system upgraded. Overall, preparations in this area are still at an early stage.

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

Little progress can be reported as regards the **legislative framework**. Legislation was adopted defining the organisation and responsibilities for decentralised management under IPA components preparing for the Structural Funds and the Cohesion Fund. Compliance with related EU policies, in particular on competition, State aid, public procurement, environment and equal opportunities, has not yet been fully achieved. Preparations in this area are at an early stage.

Good progress was made as regards the establishment of an **institutional framework**. Appointments were completed in 2011 but corresponding implementing and operational agreements remain to be signed. A high-level working group on the preparation for decentralised management was established in the last quarter of 2011, headed by the competent accrediting officer (CAO). The group met on a regular basis with a view to speeding up the preparations for decentralisation of IPA. Preparations in this area are advancing.

Some progress can be reported as regards **administrative capacity**. A gap assessment of IPA components preparing for the Structural Funds and the Cohesion Fund was completed and an action plan to address identified gaps was drawn up. This plan contains the list of identified gaps, as well as recommendations for addressing them in the course of the ongoing gap plugging phase. In line with the workload analysis of relevant authorities undertaken by Montenegro, increased efforts are required to recruit and properly train staff for the defined operating structures. The development of internal procedural manuals has to be finalised without delay. Preparations in this area are at an early stage.

Good progress has been made in the area of **programming**. In March, the government adopted the Strategic Coherence Framework and the two operational programmes, namely one for regional development and one for human resources development. The quality and

maturity of projects need to be further improved in order to comply with the requirements of IPA components preparing for the Structural Funds and the Cohesion Fund. Preparations in this area are moderately advanced.

Limited progress can be reported in the field of **monitoring and evaluation**. Discussions on a concept for a management information system have started. Training of staff of the operating structures continued in matters including monitoring indicators. Preparations in this area are at an early stage.

Progress can be reported as regards **financial management, control and audit**. Pilot internal audits, covering the ministries involved in the management of IPA components preparing for the Structural Funds and the Cohesion Fund, were completed in the period from November 2011 to March 2012. The purpose of the pilot audits was to strengthen the financial management and control systems in line with the requirements for decentralised management of these IPA components. In February, legislation providing for an independent audit authority for EU funds was adopted. The actual establishment of this body, the recruitment of the auditors and the definition of the internal organisation and working procedures remain to be completed. Preparations to establish financial management and control systems for the future Structural Funds and the Cohesion Fund are at an early stage.

### *Conclusion*

Some progress has been made in this area, in particular with regard to the institutional framework and programming. Montenegro needs to strengthen administrative capacity in the established IPA structures and adequately prepare them for the future. Overall, preparations in the area of regional policy and coordination of structural instruments have started.

#### **4.23. Chapter 23: Judiciary and fundamental rights** (*See also Political criteria*)

Progress has been made in the area of the **judiciary**. Judicial reform has continued. The action plan to implement the judicial reform strategy for the period 2007-2012 was revised in December, amending a number of measures on the independence and efficiency of the judiciary and the relevant deadlines. Implementation of the strategy and the action plan has advanced.

With regard to the *independence and impartiality* of the judiciary, procedures for amending the Constitution are still ongoing with a view to further enhancing judicial independence, in particular through a de-politicised and merit-based system of appointments of members of the Judicial and Prosecutorial Councils and of state prosecutors. Draft constitutional amendments were enacted by the Parliament with the required 2/3 majority in September 2011. The Parliamentary Committee for Legal and Constitutional Affairs adopted a set of constitutional amendments in May, which have yet to be submitted to a plenary vote.

Implementation of the legislation on courts, the Judicial Council and the State prosecutor's office continued. In June, the new Judicial Council was constituted and the presidents and members of the Disciplinary Commission and of the Commission for conducting the written tests for first-time appointment of judges were appointed from among its new members. The new Prosecutorial Council was constituted in July. In September, its president was elected and the Disciplinary Commission and the Commission for conducting the written tests for first-time appointment of prosecutors established. The Judicial Council and the Prosecutorial Council adopted their rules of procedure, setting out their organisational structure and their operational and decision-making procedures. The first written tests for judges were held in February and 13 judges have been appointed so far, in accordance with the new criteria. Nevertheless, vacancies continue to be published for specific courts and a single, country-wide recruitment system on the basis of transparent and objective criteria remains to be

established for judges and prosecutors. The amended legislation on the Judicial Council and the State prosecutor's office established a set of promotion criteria for judges and prosecutors. The criteria lack clarity and objectivity due to the lack of regular professional assessment of judges' and prosecutors' performance. Objective criteria and clear procedures for the permanent transfer of judges and prosecutors have not been introduced yet. The functioning of the Judicial and Prosecutorial Councils is hampered by their insufficient administrative capacity and budget.

Random, automated allocation of court cases continues to be ensured in courts with the aid of an IT system, except for smaller courts with few staff.

Some progress was made in the field of *accountability* of the judiciary. All decisions of the Administrative Court and the Appellate Court became publicly accessible. Commissions for monitoring compliance with the Codes of Ethics of judges and prosecutors were appointed in October 2011. The Commission for monitoring compliance with the judges' Code of Ethics acted on two complaints, both of which were rejected as unfounded. The judges' Code of Ethics was amended in March. Further efforts have been made to establish a track record of fighting corruption in the judiciary. A special allowance has been given to those judges working on organised crime and corruption, and two staff were appointed to help the Disciplinary Commission investigate complaints of corruption in the judiciary. Nonetheless, corruption and conflicts of interest are still insufficiently monitored in the judiciary and a reliable system of checking the asset declarations of judges and prosecutors needs to be established. A disciplinary procedure against one judge was launched in January, resulting in a warning. No disciplinary proceedings have been brought against prosecutors so far. The disciplinary system needs to be further strengthened and differentiated in line with the principle of proportionality. The Disciplinary Commission's dual role in investigating and deciding on disciplinary proceedings needs to be reviewed, and information on the outcome of disciplinary proceedings published in an appropriate form. Procedures for removing professional immunity need to be strengthened to ensure that judges and prosecutors are fully accountable under criminal law. A reliable system of professional evaluation of judges and prosecutors still needs to be established. Plans to publish all court rulings have been only partially implemented.

Regarding the *efficiency* of the judiciary, Montenegro has taken further measures to reduce the backlog of cases. With around 11,500 unresolved cases from previous years in all courts at the end of 2011, the backlog was approximately 4% lower in 2011 than in 2010. Only the Basic Court in Podgorica has an increased backlog due to the high number of civil cases. Four further notaries were appointed in January and three in May, bringing their total number to 40 out of the 65 foreseen notary posts. Following the entry into force of the Law on Enforcement and Security of Claims, transferring powers for civil enforcement to the bailiffs, the Parliament enacted the Law on Public Bailiffs in December. Nonetheless, enforcement of civil decisions remains weak, bailiffs still need to be recruited and the functioning of the bailiff system needs to be assessed.

With a view to increasing the efficiency of the overall judicial system, the Judicial Council began setting up special units of judges dealing with juvenile justice at the High Courts of Podgorica and Bijelo Polje. The parliament enacted a Juvenile Justice Code in December and the Judicial Training Center adopted a dedicated programme for training of judges and prosecutors. Amendments to the law on Mediation, enacted in May, regulated the status of the Mediation center. As regards access to justice, following the entry into force of the Law on Free Legal Aid in January 2012, three implementing acts were adopted and free legal aid offices were opened in all basic courts. The implementation of the law is hampered by the offices' insufficient budget. The 2012 budget for the judiciary and the prosecution is € 24.9

million, which represents approximately 0.75 % of the GDP. As the salaries of magistrates and administrative staff continue to account for most of this total, there are not enough resources to remedy deficiencies in infrastructure and equipment, which continue to hinder efficiency. Initial steps have been taken to rationalise the court network, but Montenegro continues to be one of the countries with the highest number of basic courts, judges, prosecutors and administrative staff per capita in Europe.

The current IT system allows case-tracking, automatic allocation of cases and electronic filing of judicial acts but is not yet used for statistical reporting or for assessing the performance of courts. The statistical indicators used do not provide full information about courts' performance, the duration of trials or the human and financial resources allocated. This lack of information creates problems with the consistency of data and effective follow-up. The quality of judicial statistics needs to be improved and a system to monitor the length of trials introduced. The independence and the administrative and financial capacity of the Judicial Training Centre needs to be strengthened and initial training with set curricula for all members of the judiciary introduced.

Some progress has been made on **anti-corruption policy**. The strategy for fighting corruption and organised crime and the revised 2011-2012 action plan are being implemented. Preparations are ongoing for the adoption of the action plan for the period 2013-2014. The overall institutional framework for monitoring implementation of the action plan is working well. In June, the Government adopted an analysis of the anti-corruption institutional framework and a study on the effects of setting up an anti-corruption authority.

Montenegro has made additional efforts to further strengthen its anti-corruption legal framework, with a view to ensuring alignment with the relevant European and international standards. Amendments to the Labour Law enacted by the parliament in November 2011 extended protection for whistleblowers to cover the private sector. Amendments to the Law on Free Access to Information were enacted by the parliament in July 2012, with a view to expanding the range of publicly available information and ensuring compliance with the Council of Europe Convention on Access to Official Documents and international standards in this field. Amendments to the Law on Political Party Financing were enacted in December 2011, covering supervisory institutions and in-kind contributions and fixing the ceiling for membership fees at 10 % of a member's annual income. The State Audit Institution (SAI) is now responsible for auditing political parties' annual balance sheets and reports on election campaign costs, while the State Election Commission is in charge of monitoring the implementation of other aspects of the law. The professional capacity and independence of the State Election Commission and the State Audit Institution need to be strengthened to ensure fully effective independent oversight. The mechanisms for checking on the funding of political parties and electoral campaigns and imposing penalties need to be reinforced and set out in legislation. The sanctioning system remains insufficiently dissuasive and undifferentiated, while reporting and accounting obligations for political parties need to be further strengthened. Very few sanctions have been applied so far to political parties for breaching the rules on financing. The implementation of the political party financing rules needs to be improved and the pro-active approach of the supervisory bodies ensured.

Following the full entry into force of the amended law on conflict of interest prevention in March, all 36 MPs who were also members of management boards of state-owned companies resigned from these positions and all 16 MPs who also held executive positions (including two mayors) resigned from one of their posts. 97% of State officials and 93% of local officials submitted asset declarations for 2011/2012 within the deadline set by the law. The Commission for the Prevention of Conflicts of Interest made 321 requests to initiate misdemeanour procedures for non-compliance with the law, which resulted in 176

judgements. Asset declarations by civil servants are still not being checked on substance to establish cases of illicit enrichment. The Commission for the Prevention of Conflicts of Interest continues to lack the legal mandate for control of unjustified enrichment, access to banking information and databases held by other state entities, and the administrative and professional capacity needed to perform its supervisory role adequately.

Recently amended legislation on public procurement started to be implemented. However, no notifications have been sent so far from the Public Procurement Commission to the prosecution and the control system needs to be strengthened. There is only one ongoing criminal procedure related to corruption in public procurement; no training has been provided to law enforcement officers and judges on such cases.

Some progress was made on prevention of corruption. In December, the DACI was transferred to the Ministry of Justice to ensure better coordination of anti-corruption activities. The DACI conducted a number of awareness-raising campaigns on reporting corruption and on the protection of whistleblowers. Civil society organisations have continued to actively contribute to enhancing the strategic framework and have provided evidence in corruption cases. The recommendations contained in the risk assessment of areas vulnerable to corruption started to be implemented, in particular in the areas of education, spatial planning and public procurement. Since September 2011, 178 complaints of corruption were received by the relevant institutions, out of which 140 were submitted to the prosecution and the police for further processing. Judges and prosecutors have been given training on combating corruption, in particular to help them implement the new Criminal Procedure Code. Asset declarations submitted by judges and prosecutors are not yet cross-checked against other data and measures to prevent corruption in the judiciary need to be further strengthened. No disciplinary proceedings have been launched against judges for corrupt behaviour. The DACI's capability needs to be upgraded and its capacity to monitor implementation of the government's action plan for fighting corruption and organised crime reinforced.

Some progress has been made on suppression of corruption. The full entry into force of the new Criminal Procedure Code in September 2011 has helped to speed up the criminal investigation procedure and has reduced the risk of information leakage. In June, the parliament amended the Law on Custody of Seized and Confiscated Property to define the methods of management of seized or confiscated proceeds of crime. The institutional and operational capacity of prosecutors, judges and police to fight corruption has been strengthened through further training support and additional equipment. The use of special investigative measures is more systematic as a result of the enhanced administrative and technical capacity of the Special Checks Unit. 9 representatives of the police force, the office for prevention of money laundering and terrorism financing, and the tax and customs administrations were appointed to the special investigation team, which became operational in October 2011. The team has been given additional financial resources; however, its capacity needs to be increased, in particular by acquiring access to relevant databases. Inter-agency cooperation has improved to a certain extent, but needs to be further developed.

Montenegro has further developed its track record of investigation, prosecution and conviction in corruption cases. Second instance verdicts have been issued against seven officials of a public company in Budva and four employees of the public property administration of Ulcinj sentenced to imprisonment for abuse of their official positions, and one customs officer convicted of bribery. 17 persons have been convicted to imprisonment in first instance for abuse of office and bribery, including the former Mayor of Budva, his deputy, a member of the parliament and four municipal officials. Agreement on settlement was reached with five persons, among whom the former Mayor of Ulcinj. Court hearings are ongoing in two cases against 24 police, border police and customs officers accused of abuse

of official position and bribery. During the reporting period, 23 persons have been indicted for abuse of office or bribery, including the President and a judge of a Basic Court and three employees of the Ministry of Interior. An investigation is ongoing against the former and current directors of a public company in Budva for alleged abuse of office. Internal checks performed by the customs administration, the tax administration and the police resulted in 119 cases being investigated and appropriate measures taken in 35 cases.

Nonetheless, corruption remains widespread and continues to give serious cause for concern, allowing also for the infiltration of organized crime groups into the public and private sectors. A track record of combating corruption needs to be steadily built up, in particular in terms of investigations, prosecutions and convictions in high-level corruption cases. The fact that all of the high-level corruption cases have been brought on the basis of evidence provided by a third party remains a matter of concern. There are still no corruption cases in which seizure of assets was ordered. CPC and Criminal Code provisions on confiscation and extended confiscation of criminal assets have not been used so far. The professional capacity of the Public Property Administration, responsible for the management of proceeds of crime needs to be strengthened. The capacity of prosecutors and police to conduct financial investigations, trace criminal assets and present related evidence before the courts needs to be improved. Inter-agency cooperation and information exchange, in particular between police and prosecutors, needs to be further enhanced. Prosecutors' lack of access to relevant databases and insufficient capacity hamper effective implementation of the CPC. The administrative capacity of the Special Prosecution Office for fighting organised crime, corruption, the financing of terrorism and war crimes needs to be strengthened. The independence of the judiciary remains a matter of concern, which affects the country's determination to combat corruption.

Montenegro has continued to improve the legal and institutional framework on the protection of **fundamental rights**. Nevertheless, shortcomings persist, especially in the enforcement of these rights. Administrative capacity and financial means to implement the laws remain limited.

Progress has been made in the *prevention of torture and ill-treatment* and the fight against impunity. The Ombudsman started to implement the monitoring mechanism. Processing of reported cases of ill-treatment continues to be slow and the relevant legal and institutional framework still needs to be brought into line with international standards, particularly with regard to prison conditions and the treatment of convicted persons.

Some progress has been made as regards the *prison system*; the legal and policy framework was enhanced but the administrative capacity remains to be reinforced. The use of alternative sanctions has helped to reduce the prison population but should be further pursued, as prison overcrowding remains a concern. As a consequence, living conditions in prisons have improved but are still not fully in line with international standards as regards education, prison regime, healthcare and medical treatment.

Some progress has been made with regard to *access to justice*. The Law on Free Legal Aid came into effect in January 2012 and relevant services are now available in all basic courts. The length of court proceedings remains an issue of concern.

Progress has been made in promoting *freedom of expression*. The decriminalisation of defamation and the alignment of the national system with the case law of the European Court of Human Rights have helped to improve the media environment. The new law on amnesty allows the President to pardon individuals convicted of defamation. Efforts to investigate and prosecute old cases of violence against journalists need to be stepped up.



Progress has been made with regard to *freedom of assembly and association*. The legal framework has improved. Representatives of civil society organisations are regularly involved in the activities of the state administration, including working groups on the EU accession negotiation chapters.

*Freedom of thought, conscience and religion* is generally ensured, but tensions persist between the Serbian and Montenegrin Orthodox Churches, notably with regard to property issues.

Little progress has been made with regard to *women's rights and gender equality*. The strategy for implementing the law on protection from family violence was adopted. Nonetheless, domestic violence is still an issue of concern. Women are largely under-represented in the top political and managerial positions in the country.

Some progress has been made with regard to *children's rights*. The Law on Juvenile Justice was adopted in December 2011. The introduction of victim-offender mediation as an alternative measure for children in conflict with the law continued to yield good results. A law on social and child welfare has yet to be adopted. Further efforts are needed to ensure better inclusion and access to mainstream education for children with disabilities.

Some progress has been made with regard to the *socially vulnerable and/or persons with disabilities*. An action plan for the integration of persons with disabilities 2012-2013 was adopted in March. Yet, there are no sanctions for breaking the law on disabled persons. Steps were taken towards deinstitutionalisation, and relevant training given to social workers.

Some progress has been made in the area of *anti-discrimination policies*. The Ombudsman produced three reports on human rights issues, which were discussed by the parliamentary committee on human rights. The Council for the protection against discrimination is now operational. A number of awareness-raising and training activities for civil servants have been held to build capacity in this field. Yet, the law on the Ombudsman, as well as that on anti-discrimination, remain to be aligned with the *acquis*. Some progress has been made with regard to the rights of lesbian, gay, bisexual and transgender (LGBT) persons. The government showed greater openness to promoting and defending LGBT rights. The first conviction for an attack against a representative of the LGBT community was issued; the authorities ensured the rapid identification and arrest of the alleged perpetrators who attacked in late September an author and director of a video against homophobia. However, processing of cases related to LGBT rights remains slow and LGBT persons, as well as civil society activists engaged in promoting and protecting LGBT rights, continue to be subject to discrimination.

*Labour and trade unions rights* are generally respected. Yet, more attention is needed to ensure full transparency of representativeness and the right of constitution of new unions, in line with the relevant national regulations. Negotiations on a new collective agreement have not yet finished. Social dialogue needs to improve.

Little progress has been made in the area of *property rights*. The commissions for denationalisation have continued their work. Restitution of property is still slow and procedures are cumbersome.

Progress was made with regard to the *respect for and protection of minorities and cultural rights*. Interethnic relations in the country are generally good.

Progress was made on the inclusion of Roma, Ashkali and Egyptians, especially in ensuring civil registration of displaced persons among them. A strategy for 2012-2016 and an action plan were adopted by the government in April 2012; their implementation is slow. Limited measures were taken to facilitate education and employment. Drop-out and unemployment

rates remain high, especially for women. Roma, Ashkali and Egyptians still have problems with access to satisfactory living conditions and to social and health care. Roma are still underrepresented in public institutions. Progress in resolving the issues of displaced and internally displaced persons has been significant. The deadline for applications for the status of foreigner with permanent residence has been extended to 31 December 2012 and the number of applications has increased. An office of the Ministry of the Interior opened temporarily in Konik camp to facilitate the registration of displaced persons living there. The government provided a quick and efficient emergency response to the fire in Konik camp in July, which left 800 Roma IDPs homeless.

The temporary decree on access to social and economic rights for displaced persons was also extended, to June 2013. Its implementation needs to continue. The urban plan proposing changes to the Konik area was adopted in February 2012, but the government's capacity to implement projects on such a scale is poor. The Law on Social Housing has not yet been adopted.

Good progress has been made as regards strengthening the right of individuals to personal *data protection*. The Law on Personal Data, the Information Secrecy Act and the Law on Free Access to Information were adopted. Further efforts are needed to implement the national legislation in line with the EU *acquis* in this area.

There were no developments regarding **EU citizens' rights**.

### *Conclusion*

Montenegro has made some progress in the area of the judiciary and fundamental rights. Implementation of recently adopted legislation has started. Progress has been made with regard to the publication of court rulings and the backlog of court cases. The constitutional reform aimed at strengthening judicial independence has not been completed yet. A single, country-wide recruitment system and a system to monitor the length of trials need to be set up, the court network rationalised and the reliability of judicial statistics improved. Further efforts are needed to ensure merit based appointments and career development, as well as to strengthen accountability and integrity safeguards within the judiciary. Montenegro has strengthened its anti-corruption legal framework and further developed its track record of investigation, prosecution and conviction in corruption cases, but greater efforts are needed in this respect. Corruption remains widespread and continues to be a serious cause for concern, allowing also for the infiltration of organized crime groups into the public and private sectors. The number of final convictions remains low and there are still no corruption cases in which seizure or confiscation of assets were ordered. The existing legal and institutional framework for the protection of fundamental rights has been further strengthened. The decriminalisation of defamation contributed to improving the media environment. The process of granting legal status to displaced persons has further advanced. Social inclusion of Roma, Ashkali and Egyptians has to continue, in particular through the implementation of the relevant policy documents. Shortcomings persist in the protection of human rights by judicial and law enforcement authorities. Efforts to investigate and prosecute old cases of violence against journalists need to be stepped up. Further sustained efforts will be needed to align with the EU *acquis* and international standards in this field. Overall, preparations in this area are moderately advanced.

#### **4.24. Chapter 24: Justice, freedom and security**

Some progress can be noted in the area of **migration**. The second phase of construction of the centre for foreigners, related to equipment and premises, is being completed. Amendments to the law on foreigners were passed in November 2011, postponing the deadline for submitting

requests for foreigner status for displaced persons to the end of 2012. A number of relevant by-laws better regulated foreigners' conditions. The number of irregular migrants in 2011 increased to 1,504 (1,160 in 2010). Montenegro signed a readmission agreement with the former Yugoslav Republic of Macedonia in March and ratified the existing readmission agreements with Kosovo and Switzerland. Further efforts are still needed to ensure full alignment with the *acquis* on legal migration, not least on the right to family reunification, long-term residence and conditions of admission of third-country nationals for the purposes of studies, research and highly qualified employment. The readmission agreement with Serbia is still pending.

Developments in this area are well on track.

Some progress has been made with regard to **asylum**. The implementation of the Law on Foreigners has continued, with the adoption of a number of by-laws on record keeping in asylum, and on concrete assistance to asylum seekers. The establishment of the centre for asylum seekers has been completed and will be ready to begin operations once the permits are issued. Montenegro received 239 applications for asylum, out of which only one resulted in subsidiary protection. Further efforts are required to align the national legislation with the *acquis* and the international standards in this area, including the need to make the national database for checking asylum seekers' personal data fully functional. Second instance decision-making on asylum cases needs further improvement.

The country is moderately advanced in this area.

Some progress has been made on **visa policy**. In 2011, a total of 996 visas were issued in third countries for entry to Montenegro. The number of visas issued at the border decreased to 120 in 2011 (280 in 2010) and continued to decrease during 2012. The country has partially aligned its legislation with the EU positive and negative lists contained in Regulation 539/2001. Decisions on the temporary suspension of the visa requirements for the nationals of Armenia, Azerbaijan and Kazakhstan have been adopted for the summer season. There is still no electronic link between the diplomatic and consular missions and the national visa system of the Ministry of Foreign Affairs and European Integration (MFAEI), nor is there a visa with security features. The country is moderately advanced in this area.

Progress can be reported in the field of **external borders and Schengen**. The integrated border management strategy and action plan have continued to be implemented, including by rehabilitating certain border facilities and opening a new one at the border with Serbia. Additional technical equipment has been provided; capacity building and training were delivered. Cooperation with Frontex has continued to be good; Montenegro has continued to implement its Common Core Curricula and was involved as an observer in a joint operation. Regular coordination meetings on border issues and joint patrolling took place with the authorities of the neighbouring countries. Preparations are ongoing to establish common contact points with Bosnia and Herzegovina and with Kosovo. Further efforts are needed to ensure that IT equipment is in place at the BCPs, regularly train the border police and avoid frequent rotation of trained staff. The security of the blue border and the border with Kosovo remains to be substantially strengthened, including the controls at the main ports. These latter would increase the security of the entire maritime sector. A risk assessment still needs to be carried out.

Preparations in the area of external borders and Schengen are advanced.

Progress can be reported in the area of **judicial cooperation in civil and criminal matters**. As regards civil matters, in February Montenegro ratified the Convention on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility

and measures for the protection of children. Bilateral relations in the field of civil matters have continued with the neighbouring countries and with certain Member States. A proposal for the Act on Private International Law was adopted by the government in June. As regards judicial cooperation in criminal matters, the legal framework for fighting serious and organised crime at regional and international levels has been further strengthened. In September 2011, Montenegro ratified an agreement with Croatia on mutual enforcement of judgments in criminal matters. Further efforts are needed to fully align the legal framework with the *acquis*, in particular by applying the legislation on the European evidence warrant and the principle of mutual recognition of judgments and probation decisions. Montenegro needs to meet all the criteria, including on personal data protection, to conclude the cooperation agreement with Eurojust.

Preparations in this area are on track.

Progress has been made in the area of **police cooperation and the fight against organised crime**. The country has continued to extend international and regional cooperation in these fields, as well as to reinforce its legal framework and administrative capacities. Joint investigative operations with other countries of the region, and with EU Member States, Interpol and Europol, resulted in an increase in the number of indictments, arrests and convictions in the field of organised crime. An agreement on extradition and an agreement on police cooperation were respectively ratified and signed with the former Yugoslav Republic of Macedonia. A police cooperation agreement with Croatia, to strengthen public security and prevent criminal activities during the tourist season was signed in May 2012. The police authorities from Montenegro and Bosnia and Herzegovina signed a memorandum of cooperation on jointly fighting corruption, organised crime, drug trafficking and terrorism. A secure connection between Europol and Montenegro was put in place in April; an operational agreement remains to be signed and the liaison officer remains to be appointed.

The policy and legal frameworks in this area have been improved. The Law on Internal Affairs was enacted by the Parliament in July. It foresees the transfer of the Police Directorate under the authority of the Ministry of Interior and Public Administration, to ensure political accountability and better coordination on law enforcement matters. Attention needs to be put to ensure independent and transparent oversight on the police, detailed rules to deal with complaints against the police, and fair recruitment process. Since September 2011, the new Criminal Procedure Code is being implemented by all relevant state bodies. More specialised organisational units within the police have been introduced. An action plan for combating organised crime was adopted in January, introducing operational measures and indicators in line with the priorities identified in the 2011 organised crime threat assessment (OCTA). OCTA's classified version needs to be made available to the Office of the Special Prosecutor, given its leading role in the investigations against organised groups' affiliates. The capacities of the witness protection unit in the police have been reinforced, through the provision of adequate training and relevant IT equipment, including for secure communication. Montenegro has ratified the Council of Europe's Convention on Cybercrime and the additional protocol, and incorporated their provisions in the Criminal Code. A contact point for cybercrime is active within the police.

The intelligence-led policing (ILP) model is being implemented and the capacities of the relevant department reinforced, including for the activities of the special investigative team (SIT). The track record of cases on organised crime has continued to develop<sup>3</sup>, but needs to advance further. In May, the High Court in Bijelo Polje sentenced two members of a criminal

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<sup>3</sup> For additional details on the track record of cases of organised crime over the reporting period, see also the report on Montenegro's progress in the implementation of reforms of May 2012.

organisation involved in money laundering, drug trafficking and smuggling to six and eight years' imprisonment, fines of more than € 12 million and financial compensation to the state of € 21.4 million. A new investigation was opened in June for a case of cybercrime, against 10 individuals accused of computer fraud. Three new indictments have been raised, for a case of document forgery (June) and two of drugs trafficking (in June and July, respectively). A number of trials are ongoing.

Financial investigations have led to the temporary seizure of assets amounting to over € 40 million. Amendments to the Law on Management of Seized and Confiscated Property were enacted in June, extending the definition of property and improving its management. Still, relations between the prosecution service and the police within the framework of the new CPC need to be clarified and improved, including in conducting financial investigations. Additional equipment and specialised staff are needed to increase the capacities of the law enforcement authorities to investigate and manage complex cases; their access to relevant databases and criminal intelligence information has to be ensured. Trainings need to be delivered to the judicial authorities, to increase their specialisation in the field of organised crime. Efforts are still required to align the legal framework on witness protection and the extradition procedures with the *acquis*. To ensure the full implementation of the ILP system throughout the country, further training and capacity building for the police is needed, both at local and central level. The Public Property Administration needs to be further strengthened, particularly by upgrading the skills of the staff in charge of valuing and managing temporarily seized and confiscated assets. The preparation of implementing legislation in this area has to be finalised, as well as inter-institutional cooperation needs to be improved, in order to ensure smooth and timely enforcement of court decisions on seizure or confiscation of criminal assets. The overall number of financial investigations and seized assets remains low, due to the very weak administrative capacity in this field.

Some progress can be reported in the fight against *money laundering*. The Law on Prevention of Money Laundering and Terrorist Financing was amended in February 2012 with the aim of aligning it with the *acquis*. The relevant body opened 107 new cases and has taken an active part in a financial investigation led by the Special Prosecutor, resulting in two indictments for money laundering against six individuals. A memorandum on inter-institutional cooperation and data exchange in the prevention of money laundering and terrorist financing was signed in December; nevertheless, the police are still not part of it. The current procedures whereby the police receive information on suspicious transactions from the APMLTF delay financial investigations and need to be revised. The IT system of the APMLTF needs to be reviewed and updated to support the workflow effectively. The track record of financial investigations needs to be further developed. Montenegro produces a low level of suspicious transaction reports, mainly from the banking sector; the capacities of the relevant institution need to be reinforced to check all obligors. The number of convictions for money laundering remains very low.

Some progress has been made with regard to *trafficking in human beings*. The preparation of a new national strategy for combating trafficking in human beings for the period 2012–2018 is in its final phase, following a public debate organised in July. During the reporting period four people were identified as victims and hosted in the shelter for human trafficking, for which more adequate premises have been found. Still, the capacities of the law enforcement and judicial authorities in dealing with cases of trafficking in human beings need to be reinforced. Identification and protection of victims, especially children and women, need to be further strengthened. The country is moderately advanced in this area.

Montenegro has made progress in the field of police cooperation and in the fight against organised crime. The track record has continued to develop, but needs to advance further.

Tackling organised crime through all means of the legal system presents particular challenges for the country. Regional and international cooperation was reinforced through the signature of agreements and joint operations. Still, the results achieved, including the administrative capacities and interagency cooperation in the field of organised crime have to be pro-actively consolidated, particularly in the field of financial investigations, while the legal framework needs to be completed. A national criminal intelligence system still remains to be established. Its lack hampers the effectiveness of the law enforcement bodies, which has to be enhanced. Prosecutor's leading role in investigations still needs to be strengthened. Increased efforts are required in the fight against money laundering and trafficking in human beings, including to identify and reintegrate victims.

Preparations in this area are moderately advanced.

Limited progress can be reported in the **fight against terrorism**. Execution of the action plan for implementing the relevant strategy has continued, including through specialised training for the judicial and law enforcement authorities. The relevant report was adopted in July. However, the capacity to detect and address in a coordinated way activities possibly linked to terrorism remains limited. Efforts remain to be made to fully align the national legislation with the *acquis*. Preparations in this area are moderately advanced.

Progress can be reported on **cooperation in the field of drugs**. The division for the fight against drugs within the police directorate was reorganised, and the responsibilities for prosecuting smuggling and trafficking have been centralised at the criminal police department; its capacities have been strengthened through specialised training and the purchase of equipment to be used in anti-drug operations. Montenegro successfully conducted a number of police operations in this area, in close cooperation with Interpol, Europol, EU Member States' police forces, the US Drug Enforcement Agency and the neighbouring countries, which resulted in the arrest and prosecution of a number of members of criminal organisations. Awareness-raising activities on drugs were conducted in schools and at local level.

However, drug trafficking is still a major concern, since Montenegro is in the transit area on the smuggling route to and from the EU. The amount of seizures remains very low. The legal framework and administrative capacities have to be strengthened, and are still to be aligned with the *acquis*. A focal point for cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) has been appointed but is not yet operational, due to the limited financial and human resources. Further efforts are needed on drug prevention and on the treatment and rehabilitation of drug users. Preparations in this area are progressing.

Some progress can be reported on **customs cooperation**. A division responsible for capacity building was established within the customs administration.

Further efforts are needed to align the legislative framework with the *acquis* in this field: no progress can be reported in relation to accession to the Common Transit Convention. The procedure for accession to the Convention on mutual assistance and cooperation between the Member States (Naples II) has not yet been initiated, and the Convention on the use of information technology for customs purposes has not yet been ratified.

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

### *Conclusion*

Overall, Montenegro has made some progress in the area of justice, freedom and security. Alignment with the *acquis* in the field of migration, asylum and visa has started. The construction of the centre for foreigners and the one for asylum seekers is being finalised. Implementation of the integrated border management strategy and action plan is on track. In

the area of police cooperation and the fight against organised crime, the country has continued to extend its international and regional network and to reinforce its legal framework and administrative capacities. Joint investigative operations with other countries of the region, as well as with EU Member States, Interpol and Europol, resulted in an increase in the number of indictments, arrests and convictions in the field of organised crime. The policy and legal frameworks in this area have improved. Further sustained efforts will be needed to align with the *acquis* in this chapter, especially in the fields of asylum, visa, external borders and Schengen, the fight against organised crime, and to develop a solid track record of investigations, convictions and drugs seizures. The capacity to implement the legal framework in judicial cooperation in civil and criminal matters has to be reinforced. Increased efforts are required in the fight against money laundering and in addressing trafficking in human beings. The country is moderately advanced in this area.

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

Good progress has been made in the area of **research and innovation policy**. The budget for funding research projects at national level has been increased and several measures have been taken to strengthen research and innovation capacity. Preparations in this area are on track.

Some progress has been made with regard to research cooperation under the Seventh EU Research **Framework Programme** (FP7). Montenegro has strengthened its administrative capacity by expanding the network of national contact points and has organised Information Days and training sessions on research cooperation with European and other international partners (e.g. China). Successful participation has slightly increased, but remains particularly weak in terms of participation of SMEs and Marie Curie grants under the Specific Programme 'People'. Further efforts are necessary with a view to participating in the next EU Research and Innovation Programme 'Horizon 2020'. Preparations in this area are on track.

Some progress can be noted with regard to Montenegro's integration into the **European Research Area** (ERA). The budget for the national funding programme has increased and has been allocated in a transparent and competitive manner and in line with EU priorities in terms of thematic areas. Funding has also been used to stimulate mobility of researchers. Montenegro has become a full member of EUREKA and applied for membership in COST. Collection of statistics on investment in research has improved. The level of investment in research has increased from 0.13% to 0.45% of GDP. However, the level of investment by the private sector remains very low. Further steps have been taken to establish the first centre of excellence. A business plan to establish a Science and Technology Park has also been prepared aiming at improving the transfer of knowledge and cooperation between academia and industry. Several measures have been taken to encourage SMEs to innovate. Further efforts based on the Innovation Union flagship are, however, necessary, in particular preparation for the self-assessment tool. Preparations in this area are on track.

#### *Conclusion*

Good progress has been made in the area of science and research. Further efforts are necessary to strengthen research and innovation capacity at national level and facilitate integration into the European Research Area. The level of investment in research needs to be further increased in particular from the private sector and by stimulating public and private investment in scientific research activities. Overall, preparations are on track.

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

There has been some progress in the fields of **education, training and youth**. Strategies and action plans have been adopted in the areas of elementary education, lifelong learning and vocational education. The number of children included in pre-school education has continued

to increase. More Roma, Ashkali and Egyptian (RAE) children are attending school (1,582 children enrolled in 2012) due to the inclusive education programme implemented by the Ministry of Education and Sports. They are also provided with free textbooks and school supplies.

Montenegro has established the legal framework for Bologna reforms and the process of implementation is underway. The third cycle of studies requires attention and support in reinforcing the research component and following international standards. The number of students at the public University of Montenegro has increased from 2,931 in 2003 (the year when Montenegro adopted the Bologna process) to 18,464 (2011), putting a strain on the university's limited resources and challenging its capacity. Almost 75% of pupils from technical schools in secondary education enrol in university courses instead of entering the labour market, and employers report shortages of finding graduates with the right skills in sectors such as tourism. A review of the enrolment policy for universities and the objectives of the VET schools is therefore necessary to match skills to the labour market needs. More emphasis should also be put on implementation of the Law on National Qualifications Framework. The National Qualifications Council has set up ten sectoral commissions made up of members of the private sector and government officials to help establish a better connection between education providers and employers, i.e. the labour market. Montenegro's results in PISA scores and the participation of Montenegrin students in competitive EU scholarship programmes remain low. Preparations in this area are starting.

Some developments can be reported in the area of **culture**. Montenegro was one of the countries selected for the European Union Prize for Literature in 2011 as part of the activities financed through the Programme. Information Days have been organised to promote the Programme. An MoU has been prepared for participation in the Europe for Citizens programme. Preparations in this area are on track.

#### *Conclusion*

Some progress has been made in the area of education and culture. Higher education reform and modernisation of the vocational education and training system need to be further addressed. Implementation of educational reforms remains a challenge. Overall, preparations are moderately advanced.

#### **4.27. Chapter 27: Environment and climate change**

Little progress has been made in the area of the **environment**. With regard to *horizontal legislation*, the parliament amended the Law on Strategic Environmental Assessment (SEA) to ensure full transposition of the SEA Directive. Further efforts are needed to implement the Environment Impact Assessments (EIA) and SEA. No progress was made with regard to access to environmental information, access to justice and environmental liability. Public consultations with civil society and other stakeholders need to improve. A second 'Aarhus Centre' was opened, covering the northern part of the country.

Some progress was made in the area of *air quality*. Part of the NEC Directive was transposed by the Decree on maximum national emissions of certain pollutants. The rulebook on air quality monitoring was adopted pursuant to the Law on Air Protection. The government adopted a decree determining types of pollutants, threshold values and other air quality standards. Air quality standards have been further harmonised, in particular those related to suspended particulates. Two new automatic stations for air quality monitoring have been placed in the municipalities of Pljevlja and Podgorica. A regulation has been adopted transferring part of the competences of the Environmental Protection Agency to the public institution 'Centre for eco-toxicological testing of Montenegro'. Pursuant to the Law on Air



Protection, the Ministry of Sustainable Development and Tourism adopted the new Monitoring Programme of Fuel Quality of Petroleum Origin.

Some progress is noted in the area of *waste management* with the adoption of the new Law on Waste Management. Preparation and implementation of municipal waste management plans are at an early stage. The development of an integrated waste management system is at an early stage, with waste continuing to be disposed of in open sites or in multiple unauthorised dumps. Limited progress has been made in relation to waste infrastructure, in particular the construction of regional landfills.

With regard to *water quality*, no progress can be reported. Efforts to develop and adopt water quality legislation should be stepped up. Monitoring networks and water management plans are at an early stage of development, as is the infrastructure for waste water treatment.

In the field of *nature protection*, little progress can be reported. A decree on the organisation and functioning of the public administration was adopted by the government, providing for the Nature Protection Institute to be placed under the authority of the Agency for Environmental Protection. Implementation of the Habitats and Birds Directives and the development of scientific data for the designation of protected areas and future Natura 2000 sites remain at an early stage.

As regards *industrial pollution control and risk management*, some progress was made with the adoption of the programme for bringing certain industries in line with the Law on Integrated Environmental Pollution Prevention and Control.

Some progress can be reported in the field of *chemicals*, mainly due to the adoption of a new Law on Chemicals. The new law designates the Ministry of Sustainable Development and Tourism and the Environmental Protection Agency (EPA) as the competent authorities for chemicals, and lays down rules on the classification, packaging and labelling of chemicals and the transport, import and export of hazardous chemicals.

Some progress was made in the area of *noise* through the adoption of a rulebook on limit values for noise in the environment.

As regards *civil protection*, little progress can be reported with regard to the preparation of strategies for protection from and prevention of floods. The Ministry of Interior has established a national Urban Search and Rescue team, and a national flood rescue team. At the international level, Montenegro signed an agreement with the Republic of Slovakia on cooperation and mutual assistance in case of natural and other disasters. However, Montenegro is still at an early stage in policy development for the civil protection sector. Significant efforts are needed on the reinforcement of administrative capacities.

Little progress was made in the area of **climate change**. No progress was made on general policy development; a comprehensive climate strategy is still to be developed. Climate considerations are regularly integrated in the forest policy, and also increasingly in the energy policy, but substantial efforts are required in order to fully integrate climate change into sectoral policies and strategies.

Montenegro regularly associated itself with the EU positions in the international context. While having previously associated itself also with the Copenhagen Accord, the country has not yet put forward a mitigation commitment by 2020. Montenegro should consider taking mitigation commitments consistent with those of the EU and its Member States for the purpose of the post-2020 climate agreement to be reached by 2015.

As regards alignment with the climate *acquis*, Montenegro is still at a very early stage. Montenegro took initial steps to identify stationary installations for the purpose of future

implementation of an Emissions Trading System. Alignment advanced only with F-gases and ODS Regulations, and with the Fuel Quality Directive. Significant efforts are required to strengthen the country's monitoring, reporting, and verification capacities

Montenegro participated regularly in climate work under the Regional Environmental Network for Accession (RENA). A successful high level event was organised in June 2012 under RENA on EU-Montenegro Climate Cooperation. Efforts are needed to raise awareness at all levels and to promote cooperation between all relevant stakeholders

Some progress was made regarding **administrative capacity**. The administrative capacity of the EPA has improved. Under the recently adopted decree on the organisation of the public administration, the Hydro Meteorological Office and the Seismological Office were merged into a single institution called the Hydro Meteorological and Seismological Office. The heavy reliance on temporary staff and the high staff turnover remain issues of concern. The shortage of administrative capacity to address climate change and the ad hoc inter-institutional cooperation are delaying the preparation and implementation of a climate policy in line with the *acquis*. The administrative structure on climate change should be considerably strengthened, and capacity building support is required in order to address the significant capacity, cooperation and coordination needs in the area of climate change.

### *Conclusion*

Montenegro has made little progress in the area of *environment and climate change*. There are first signs of improvement with the adoption of legislation on waste management, air quality and chemicals and with regard to the administrative capacity and efforts undertaken towards aligning with the climate *acquis*. Further attention is needed in the areas of water quality and waste management. The effective implementation of the EIA and SEA *acquis* needs to be ensured. Considerable efforts are required to align with and implement the environment and climate *acquis*, as well as to strengthen administrative capacity and inter-institutional cooperation. Environment and climate change considerations need to be more systemically taken into account in other policy fields and planning documents. The lack of political priority and adequate financing, as well as limited awareness of environmental and climate requirements are hampering progress in this field. Preparations in this area are still at an early stage.

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

There has been some progress in the area of **consumer protection**. A Decree on Organisation and Method of Operation of Public Administration has been adopted by the Government, providing for the establishment of an Administration for Inspectorial Affairs, which will comprise almost all inspectorates dealing with supervision of market and consumer protection. The Market Inspectorate launched its new site with a view to improving consumer protection awareness. The Arbitration Board has improved its track record from two cases in 2010 to six cases in 2011. The two consumer protection NGOs still have limited outreach and weak capacity to ensure effective public support for improving consumers' rights. Montenegro has started to address its priorities in this area.

There has been some progress on *product safety-related issues*. Market surveillance activities have continued. The 2012 Annual Market Surveillance Plan covers six product categories and envisages ten joint inspection activities in the different regions of Montenegro. Since May 2011, when the National System for the rapid exchange of information was established, until the end of 2011, 79 dangerous products were monitored by the Market Inspectorate, and one dangerous product was found. Revision of the current general product safety law is

necessary to ensure alignment with the EU *acquis*. Montenegro has started to address its priorities in this area.

No progress can be reported as regards *non-safety-related issues*. The Law on Consumer Protection has yet to be adopted to align national legislation with several EU Directives, including those dealing with unfair commercial practices, unfair terms of contract and injunctions, distance selling, certain aspects of timeshares and sales of consumer goods, and with Commission recommendations on arbitration and mediation in disputes. Preparations in this area have started.

There has been some progress in the area of **public health**. The national strategy for improving the quality of health protection and the safety of patients was adopted in February 2012. Implementation of e-health is still slow.

Some progress can be reported as regards *tobacco control*. A rulebook on pictorial health warnings on tobacco product packaging entered into force in January 2012. Enforcement of the law limiting the use of tobacco products, which extends the areas where smoking is prohibited, poses challenges. Montenegro has started to address its priorities in this area.

There has been good progress with regard to *communicable diseases*. Amendments to the law on protecting the population against communicable diseases were adopted in June 2012 aiming at aligning with the *acquis*. They expand the list of communicable diseases and recognise an obligation to define cases in which infectious diseases that might constitute a threat to global public health need to be reported, in line with International Health Regulations. An information system for microbiological diagnostics has been set up in the Institute for Public health. Montenegro has been downgraded to a high-risk country, mainly due to challenges with regard to the quality of polio surveillance. Further efforts are required with a view to developing capacities to prevent HIV transmission in all health care settings through the provision of safe blood and blood products. Continued efforts are needed to provide affordable and equitable treatment, care and support services for all people infected and affected by HIV. Monitoring and evaluation needs to be strengthened in the area of communicable diseases, notably with regard to vulnerable communities. Preparations in this area are on track.

Good progress has been made in the area of *blood, tissues, cells and organs*. The Blood Transfusion Institute was registered in December 2011. It consists of the reference institution in Podgorica and eight regional units. The Ministry of Health has set up a Commission for Blood Transfusion as an advisory, multi-disciplinary body. The Statute of the Blood Transfusion Institute includes plans for putting in place internal and external monitoring of the quality of work, in line with the *acquis*. Training on quality assurance control has started. Several rulebooks have been adopted in the area of tissues and cells. Preparations in these areas are on track.

No progress can be reported in the area of *patients' rights in cross-border healthcare*. Preparations in this area still need to be launched.

Some progress can be noted in the field of *mental health*. Activities have been initiated to assess the training needs of and develop training plans and programmes for staff providing mental health services. The first therapy guidelines for schizophrenia diagnostics have been developed in cooperation with the WHO. Further efforts are needed to establish community-based mental healthcare as an alternative to institutionalisation. Montenegro has started to address its priorities in this area.

Some progress has been made in the field of *drug abuse prevention* as regards substitution treatment for drug abusers and the establishment of a substance abuse register that may help

monitor needs for treatment and care. National programmes for the early detection of cervical and colorectal *cancer* were adopted in September 2011. Efforts have been made to raise awareness of early detection of breast and cervical cancer. A national strategy for preventing the harmful use of *alcohol* is under preparation. Montenegro has started to address its priorities in these areas.

#### *Conclusion*

Some progress has been made in the fields of consumer and health protection. Legal alignment needs to continue in the area of consumer protection. Overall, preparations in these areas are moderately on track.

#### **4.29. Chapter 29: Customs union**

Some progress has been made in **customs legislation**. Legislation was adopted to align the nomenclature of the national customs tariff with the EU Combined Nomenclature for 2012. The decree also contains customs tariffs set by the SAA and FTA agreements that Montenegro has signed with other countries. The parliament enacted a new law on the customs tariff with a view to further aligning it with the *acquis* on the tariff and statistical nomenclature and the Common Customs Tariff. Preparations in the area of customs legislation are moderately advanced.

Some progress can be reported in building up Montenegro's **administrative and operational capacity**. Under the systems for the electronic exchange of pre-arrival data (SEED) project, new protocols on automated data matching between the customs administrations of Montenegro and Serbia and Bosnia and Herzegovina were signed in March and June respectively. Other agreements have been concluded with national bodies and neighbouring countries for operational cooperation, amongst others at the border crossing points, for training, intelligence and veterinary and phyto-veterinary checks. Further efforts are needed to enhance management capacity, especially at strategic level and through greater involvement of the business side of the customs administration in leading IT developments. There is still a clear need for a comprehensive business and IT strategy. Understaffing of the IT units remains an issue of concern. Further efforts are still needed to strengthen internal control in order to effectively prevent and detect corruption and other misconduct. Preparations for future membership of the Common Transit Convention will need to be stepped up. Preparations are moderately advanced.

#### *Conclusion*

Some progress has been achieved in customs legislation. A new law on the customs tariff further aligns legislation with the Common Customs Tariff. In the areas of administrative and operational capacity, the implementation of existing procedures and working methods needs to be stepped up. Preparations for possible accession to the Convention on a Common Transit Procedure need to be enhanced. Overall, preparations in the field of customs union are moderately advanced.

#### **4.30. Chapter 30: External relations**

Some progress can be reported in the field of the **common commercial policy**. Montenegro was formally accepted as a member of the WTO in December, and officially joined on 29 April. A new law on foreign trade in dual-use goods entered into force in July, aimed at aligning with the dual use *acquis*. No further progress can be recorded regarding administrative capacity. The department for multilateral trade cooperation and international economic relations in the Ministry of Economic Affairs needs to be strengthened. Preparations in the area of the common commercial policy are moderately advanced.

As regards **bilateral agreements with third countries**, Montenegro continued to negotiate bilateral free trade agreements with Belarus and Kazakhstan in line with its obligations under the FTA with Russia. A free trade agreement with EFTA countries was signed in November and entered into force in July. In the context of its WTO accession negotiations, Montenegro signed a free trade agreement with Ukraine. In September 2011, a bilateral investment promotion agreement was concluded with Azerbaijan and ratified by the Parliament in June, as well as the agreement on economic cooperation with the United Arab Emirates. Montenegro continued to play an active role within CEFTA.

There are no developments as regards **development policy and humanitarian aid**. The required legal framework needs to be established. Preparations in these areas still need to be launched.

#### *Conclusion*

Some progress has been made in the area of external relations. Montenegro has become a member of the WTO. Overall, preparations in the area of external relations are moderately advanced.

#### **4.31. Chapter 31: Foreign, security and defence policy**

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

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

Six more countries recognised Montenegro as an independent State. There are still 38 countries that have not yet recognised Montenegro since it gained independence in 2006.

A Political Director and European Correspondent were appointed in January. Amendments to the Law on Defence entered into force in February.

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

No additional developments can be reported concerning *conflict prevention*.

As regards *non-proliferation*, Montenegro is participating in some, but not all, international export control arrangements and instruments concerning the non-proliferation of weapons of mass destruction. Compliance with international commitments on small arms and light weapons (SALW), including the aims of the EU strategy on SALW, is continuing with the aid of national laws and control systems. In December, Montenegro ratified the amended Protocol II to the Convention on certain types of conventional weapons (CCW), which entered into force in June.

With regard to *cooperation with international organisations*, in October 2011 Montenegro presented its second Annual National Programme, launching the second cycle of the NATO Membership Action Plan (MAP). The second cycle was completed in June 2012. Since October 2011, Montenegro has been a member of UNESCO's Executive Board. Montenegro continues to participate in the international operations ISAF in Afghanistan and UNMIL in Liberia.

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

for associated countries (Associated Countries Network) have advanced.

As regards the **common security and defence policy (CSDP)**, and in particular *civil and military crisis management*, in December Montenegro ratified the agreement with the EU, establishing a framework for Montenegro's participation in the EU crisis management operations. The agreement entered into force in April. Montenegro has been participating in the EU operation ATALANTA in Somalia.

#### *Conclusion*

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

#### **4.32. Chapter 32: Financial control**

Some progress can be reported in the area of **public internal financial control (PIFC)**. After the completion of the legislative framework in 2011, efforts continued to integrate managerial accountability into the management systems of the Montenegrin public administration. Financial management and control (FMC) in public bodies has improved with the appointment of additional FMC managers at national level and in municipalities, the pilot establishment of FMC systems in selected ministries, and various training activities. A self-assessment exercise to support the monitoring of FMC progress was completed. With regard to internal audit, about half of the entities that are required to set up an internal audit unit have done so, although not all units have yet appointed audit staff. Some internal auditors were appointed, although none of them with an internationally recognised certificate. The Central Harmonisation Unit (CHU) developed an Internal Audit Manual and recruited auditors were trained on how to use it. Some pilot audits were launched.

While the legal framework for PIFC is in place, there is weak capacity to assume legal responsibilities. Montenegro adopted a strategy for the further development of PIFC for the period 2012-2017, but without explicit plans on how managerial accountability arrangements will be strengthened. Concerns remain with regard to implementation capacity. Significant efforts are needed in order to introduce international standards in internal audit and to address the existing critical shortage of internal audit staff. A certification programme for auditors needs to be adopted too. Preparations in the area of PIFC are at an early stage.

Some progress can be reported in the area of **external audit**. The introduction of performance audit (PA) has started with the establishment of a performance audit unit and the intensive training of auditors. An annual report on activities of the State Audit Institution (SAI) for the period October 2010-October 2011 was published in November. The SAI performed 14 audits, thereby broadly fulfilling its audit plan. The overall efficiency of the SAI continued to improve, and there was better acceptance of audit recommendations by audited entities. However, real separation between the SAI and the Audit Authority remains to be achieved, despite the new Law on the Audit Authority for EU funds, which was adopted in March. An SAI Strategic Development Plan and improved audit methodology are in the preparation stage. Amendments to the current legislation on the SAI need to be adopted to guarantee the SAI's financial independence. Preparations in this area are at an early stage.

No progress can be reported in the areas of **protection of the EU's financial interests** and **protection of the euro against counterfeiting**. Preparations in these areas are at an early stage.

### *Conclusion*

There has been uneven progress in the field of financial control. While the legal framework for PIFC is in place, practical implementation is lagging behind, particularly at local level. Montenegro needs to strengthen managerial accountability arrangements in the context of the public administration reform. Financial independence of the SAI should be guaranteed in practice. Overall, preparations are at an early stage.

#### **4.33. Chapter 33: Financial and budgetary provisions**

No progress can be reported as regards **traditional own resources, VAT resources and GNI resources**. Montenegro is not yet aligned with the *acquis* in these areas. However, differences between the systems in Montenegro and the EU continue to be limited in terms of basic principles and institutions for the underlying policy areas affecting correct application of the rules on own resources. For progress in the underlying policy areas, *see Chapters 16 — Taxation, 18 — Statistics, 29 — Customs union and 32 — Financial control*.

There has been little progress in the area of **administrative infrastructure**. Administrative capacity of the institutions in the underlying policy areas affecting indirectly the own resources system (customs, taxation, statistics, financial control) needs to be further strengthened. In addition, a fully operational coordination structure will be required in order to ensure the correct calculation, accounting, forecasting, collection, payment and control of own resources and reporting to the EU for implementation of the own resources rules. Preparations in this area are at an early stage. Effective tools to fight against tax evasion and fraud and to decrease the informal economy need to be developed.

### *Conclusion*

Limited progress has been made as regards financial and budgetary provisions. In due course, a coordinating body needs to be set up to steer pre-accession preparations in the own resources field. The administrative framework for the application of the own resources rules needs to be established. Overall, preparations are at an early stage.

## Statistical Annex

### STATISTICAL DATA Montenegro

<b>Basic data</b>	Note	2001	2007	2008	2009	2010	2011
Population (thousand)	1)	615	625	628	630	616b	618
Total area of the country (km <sup>2</sup> )	2)	13 812	13 812	13 812	13 812	13 812	13 812
<b>National accounts</b>							
	Note	2001	2007	2008	2009	2010	2011
GDP (million euro)	3)	1 295	2 681	3 086	2 981	3 104	3 290f
GDP (euro per capita)		2 106	4 290	4 917	4 731	5 035b	5 323f
GDP (in Purchasing Power Standards (PPS) per capita)		:	9 990	10 700	9 685	10 143b	10 546f
GDP per capita in PPS (EU-27 = 100)		:	40	43	41	40e	:
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		1.1	10.7	6.9	-5.7	2.5	2.8f
Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	:	:	:	:	:
Real unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:
Labour productivity per person employed (GDP in PPS per person employed, EU-27 = 100)		:	:	:	:	:	:
<b>Gross value added by main sectors (%)</b>							
Agriculture and fisheries	4)	11.9	9.1	9.3	10.0	9.2	:
Industry	4)	20.8	13.6	13.5	13.6	13.5	:
Construction	4)	3.9	7.3	7.7	6.5	6.1	:
Services	4)	63.4	70.0	69.5	69.9	71.2	:
Final consumption expenditure, as a share of GDP (%)		100.2	108.5	113.8	106.2	105.6	105.7f
Gross fixed capital formation, as a share of GDP (%)		17.5	32.3	38.3	26.7	21.1	19.2f
Changes in inventories, as a share of GDP (%)		5.9	1.5	2.3	0.4	1.7	:
Exports of goods and services, relative to GDP (%)		38.4	44.4	39.6	32.1	34.7	39.4f
Imports of goods and services, relative to GDP (%)		62.0	86.7	94.0	65.4	63.1	66.3f
<b>Industry</b>							
	Note	2001	2007	2008	2009	2010	2011
Industrial production volume index (2005=100)		86.8	100.9	99.1	67.5	79.4	71.2
<b>Inflation rate</b>							
	Note	2001	2007	2008	2009	2010	2011
Annual average inflation rate (CPI, % change on previous year)		23.0	4.2	9.2	3.4	0.5	3.1
<b>Balance of payments</b>							
	Note	2001	2007	2008	2009	2010	2011
Balance of payments: current account total (million euro)		:	-1 059	-1 561	-881	-764	-634
Balance of payments current account: trade balance (million euro)		:	-1 544	-2 025	-1 322	-1 267	-1 306
Balance of payments current account: net services (million euro)		:	395	346	350	410	528
Balance of payments current account: net income (million euro)		:	31	46	5	-22	26
Balance of payments current account: net current transfers (million euro)		:	59	73	85	114	117
of which government transfers (million euro)		:	2	9	5	16	6
Net foreign direct investment (FDI) (million euro)		:	568	582	1 066	552	389
Foreign direct investment (FDI) abroad (million euro)		:	115	74	33	22	12
of which FDI of the reporting economy in EU-27 countries (million euro)		:	7	6	2	19	-9
Foreign direct investment (FDI) in the reporting economy (million euro)		:	683	656	1 099	574	401
of which FDI of EU-27 countries in the reporting economy (million euro)		:	461	378	782	287	205
<b>Public finance</b>							
	Note	2001	2007	2008	2009	2010	2011
General government deficit/surplus, relative to GDP (%)		:	6.6	-0.4	-3.6	-4.9	-5.4f
General government debt relative to GDP (%)		:	27.5	29.0	38.2	40.9	45.2f
<b>Financial indicators</b>							
	Note	2001	2007	2008	2009	2010	2011
Gross foreign debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:
Gross foreign debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	5)	:	592	512	:	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	6)	:	1 557	1 209	:	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)	7)	:	2 728	2 339	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)		:	2 213	2 754	2 358	2 152	1 911
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)		:	9.3	9.4	9.4	9.6	9.7
Deposit interest rate (one year), per annum (%)		:	3.4	4.1	3.9	3.3	3.0



euro exchange rates: average of period - 1 euro = ... national currency		1.000	1.000	1.000	1.000	1.000	1.000
Effective exchange rate index (2005=100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		:	490	337	397	416	303

<b>External trade</b>	Note	2001	2007	2008	2009	2010	2011
Value of imports: all goods, all partners (million euro)		:	2 073.0	2 530.0	1 654.0	1 657.0	1 823.0
Value of exports: all goods, all partners (million euro)		:	455.0	416.0	277.0	330.0	454.0
Trade balance: all goods, all partners (million euro)		:	-1 618.0	-2 114.0	-1 377.0	-1 327.0	-1 369.0
Terms of trade (export price index / import price index)		:	:	:	:	106.0	100.9
Share of exports to EU-27 countries in value of total exports (%)		:	69.2	62.3	48.4	56.1	50.0
Share of imports from EU-27 countries in value of total imports (%)		:	45.4	42.7	37.5	37.7	35.7

<b>Demography</b>	Note	2001	2007	2008	2009	2010	2011
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		5.5	3.0	4.1	4.4	2.9b	2.2
Infant mortality rate: deaths of children under one year of age per 1000 live births		14.6	7.4	7.5	5.7	6.7b	4.4
Life expectancy at birth: male (years)		:	72.1	72.8	72.9	73.5	:
Life expectancy at birth: female (years)		:	77.2	78.1	77.6	78.4	:

<b>Labour market</b>	Note	2001	2007	2008	2009	2010	2011
Economic activity rate (20-64): share of population aged 20-64 that is economically active (%)		:	:	:	:	:	:
* Employment rate (20-64): share of population aged 20-64 in employment (%)		:	:	:	:	:	:
Employment rate male (20-64) (%)		:	:	:	:	:	:
Employment rate female (20-64) (%)		:	:	:	:	:	:
Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)		:	:	:	:	:	:
Employment by main sectors (%)							
Agriculture		3.1e	8.1e	7.6e	6.5e	6.2	5.6
Industry		25.8e	13.8e	15.3e	14.0e	13.9	13.0
Construction		2.1e	3.8e	6.1e	6.7e	6.1	6.0
Services		69.1e	74.3e	71.0e	72.8e	73.9	75.5
Unemployment rate: share of labour force that is unemployed (%)		21.2	19.3	16.8	19.1	19.7	19.7
Share of male labour force that is unemployed (%)		:	18.1	15.9	18.0	18.9	19.5
Share of female labour force that is unemployed (%)		:	20.9	17.9	20.4	20.7	20.0
Unemployment rate of persons < 25 years: share of labour force aged <25 that is unemployed (%)		:	:	:	:	:	:
Long-term unemployment rate: share of labour force that is unemployed for 12 months and more (%)		:	14.2	13.4	15.6	15.5	15.7

<b>Social cohesion</b>	Note	2001	2007	2008	2009	2010	2011
Average nominal monthly wages and salaries (national currency)		211.0	338.0	416.0	463.0	479.0	484.0
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI/HICP) (2000=100)		91.6	179.9	195.2	255.0	262.1	256.6
* Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)		:	:	:	:	:	:

<b>Standard of living</b>	Note	2001	2007	2008	2009	2010	2011
Number of passenger cars per 1000 population		161.0	285.6	298.5	283.9	267.1b	278.2
Number of subscriptions to cellular mobile telephone services per 1000 population		639.6	1 097.9	1 611.5	2 496.5	2 201.4b	1 875.0

<b>Infrastructure</b>	Note	2001	2007	2008	2009	2010	2011
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
Length of motorways (km)		:	:	:	:	:	:

<b>Innovation and research</b>	Note	2001	2007	2008	2009	2010	2011
Spending on human resources (public expenditure on education in % of GDP)		:	:	:	:	:	:
* Gross domestic expenditure on R&D in % of GDP		:	:	:	:	:	:
Percentage of households who have Internet access at home (%)		:	:	:	:	:	51.4

<b>Environment</b>	Note	2001	2007	2008	2009	2010	2011
* Greenhouse gas emissions, CO2 equivalent (tons, 1990=100)		:	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)		:	384.4	:	:	:	:
Electricity generated from renewable sources in % of gross electricity consumption		:	:	:	:	:	:
Road share of inland freight transport (% of tonne-km)		60.3	33.2	43.0	64.1	52.5	43.1

<b>Energy</b>	Note	2001	2007	2008	2009	2010	2011
Primary production of all energy products (thousand TOE)		:	795	1 136	622	1 267	:
Primary production of crude oil (thousand TOE)		-	-	-	-	-	-
Primary production of hard coal and lignite (thousand TOE)		:	795	1 136	622	1 267	:
Primary production of natural gas (thousand TOE)		-	-	-	-	-	-
Net imports of all energy products (thousand TOE)		:	9	-25	-18	-20	:
Gross inland energy consumption (thousand TOE)		:	804	1 111	606	1 268	:
Electricity generation (thousand GWh)		2.5	2.1	2.8	2.8	4.0	:

<b>Agriculture</b>	Note	2001	2007	2008	2009	2010	2011
Agricultural production volume index of goods and services (producer prices, previous year=100)		107.0	89.0	:	:	:	:
Total utilised agricultural area (thousand hectare)	9)	518p	516	516	516	516	783
Livestock: cattle (thousand heads, end of period)	10)	178e	109	106	101	96	87
Livestock: pigs (thousand heads, end of period)	10)	21e	10	10	12	11	21
Livestock: sheep and goats (thousand heads, end of period)	10)	244e	222	209	200	198	232
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)	11)	194e	173	160	152	143	202
Crop production: cereals (including rice) (thousand tonnes, harvested production)	12)	4p	2	3	3	17b	18
Crop production: sugar beet (thousand tonnes, harvested production)		:	:	:	:	:	:
Crop production: vegetables (thousand tonnes, harvested production)	13)	:	:	:	:	151	150

: = not available

- = not applicable

p = provisional

f = forecast

e = estimated value

b = break in series

\* = Europe 2020 indicator

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

Footnotes:

- 1) The figure for 2010 is estimated on the results of the 2011 population census, the figures from 2003 to 2009 are to be revised.
- 2) For private agricultural holdings, data on areas are estimates based on data Overall Cadastre. The data on area are obtained by estimates. Total land includes: agricultural area, forests and non-agricultural land.
- 3) Montenegro unilaterally uses the euro as the sole legal tender.
- 4) Data according to NACE Rev. 1.1.
- 5) As of 31 December. Instead of standard M1, data under national definition of M0 are provided. Monetary base (M0) is comprised of banks' deposits with the CBM (settlement account and reserve requirement account) and the estimated amount of cash in circulation. Monetary aggregate M1 is comprised of M0, demand deposits by the non-banking sector held with banks and the CBM, in EUR and other currencies, excluding deposits by the Central Government. Monetary aggregate M11 comprises M1 increased by the Central Government's demand deposits in EUR and other currencies. Monetary aggregate M2 includes M1 and the non-banking sector's time deposits with banks, in EUR and other currencies, excluding deposits by the Central Government. Monetary aggregate M21 comprises M2 increased by the Central Government's time deposits in EUR and other currencies.
- 6) As of 31 December. Instead of standard M2, data under national definition of M11 are provided.
- 7) As of 31 December. Instead of standard M3, data under national definition of M21 are provided.
- 8) Age group refers to persons aged 15 or more years until 2004; from 2005 onwards age group 15-64 is used.
- 9) 2011, for private agricultural holdings, data on areas are estimates based on data Overall Cadastre. The data on area are obtained by estimates.
- 10) 2001 - 2009 - Number of livestock in 1000, including enterprises and cooperatives and households.
- 11) 2001 - 2009, calculated net quantity in 1000 tonnes, including enterprises and cooperatives, and households.
- 12) Includes households, enterprises and cooperatives; from 2010, data includes all cereals (wheat, ray, barley, oats, grain maize, buckwheat); from 2000 to 2009 only data on wheat included.
- 13) 2011, includes households, enterprises and cooperatives.