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**MONTENEGRO 2011 PROGRESS REPORT**

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

**Enlargement Strategy and Main Challenges 2011-2012**

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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 first 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 assume 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 2010 to September 2011. 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. In its conclusions, the Council noted that the opening of accession negotiations will be considered by the European Council, in line with established practice, once the Commission has assessed that the country has achieved the necessary degree of compliance with the membership criteria and, in particular, has met the

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

<sup>2</sup> Enlargement Strategy and Main Challenges 2011-2012 - COM(2011) 666.

key priorities set out in the Commission's Opinion<sup>3</sup>. The Council invited the Commission to focus its 2011 progress report on implementation of these key priorities in particular.

### 1.3. Relations between the EU and Montenegro

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 **political and economic dialogue** between the EU and Montenegro has continued, notably within the SAA bodies. The Stabilisation and Association Committee met in May 2011 and the Stabilisation and Association Council in June 2011. Seven sub-committee meetings have been held since October 2010. In June 2011, the Stabilisation and Association Council decided to establish two Joint Consultative Committees as fora for dialogue between the EU Committee of the Regions (CoR) and Montenegro's local authorities on the one hand and between the European Economic and Social Committee (EESC) and social and economic stakeholders in the country on the other. Montenegro participated for the first time (including by submitting a pre-accession economic programme) in the multilateral economic dialogue between the Commission, EU Member States and candidate countries in the context of the EU fiscal surveillance procedure, including by attending a meeting at ministerial level in May 2011.

The EU maintains a dialogue with the authorities and provides guidance on reform priorities. Progress on reforms is encouraged and monitored by the SAA bodies. Following the release of the Commission Opinion in November 2010, the Commission has held an intense dialogue with Montenegro with a view to monitoring implementation of the key priorities set out in the Opinion. The government adopted an action plan to address the **key priorities** which, overall, has been implemented consistently and systematically. Furthermore, Montenegro is currently preparing an updated version of its National Programme for Integration, the country's programme for the adoption of the *acquis*.

**Visa liberalisation** for Montenegrin citizens travelling to the Schengen area has been in force since 19 December 2009. Implementation of the visa-free regime has been smooth so far. To ensure the continued implementation of the commitments, a post visa liberalisation monitoring mechanism was established in view of increased numbers of asylum seekers from the region. The Commission presented its first monitoring report to the European Parliament and the Council in June 2011. An agreement on readmission 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. The IPA allocation for 2011 is € 34.1 million. The 2011-2013 Multiannual Indicative Planning Document (MIPD) for Montenegro was presented to the IPA Committee in March 2011. The main sectors for EU support during this period will be justice and home affairs,

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<sup>3</sup> The key priorities concern the following areas: legislative framework for elections and Parliament's legislative and oversight role; public administration reform; judicial reform; fight against corruption; fight against organised crime; media freedom and cooperation with civil society; implementation of the anti-discrimination framework and the situation of displaced persons. For the full text of the key priorities, please see COM (2010) 670.

public administration, the environment and climate change, transport, social development and agriculture and rural development. Assistance is also being provided to help the country prepare for decentralised management of the IPA programme. Montenegro benefits also from regional and horizontal IPA programmes. It is participating in four cross-border cooperation programmes with neighbouring Western Balkan countries and a fifth, with Kosovo<sup>4</sup>, is under preparation. Montenegro is also participating in the transnational cooperation programmes under the European Regional Development Fund and in the IPA Adriatic cross-border programme with Member States.

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

The IPA programme is currently managed by the EU Delegation in Podgorica. Montenegro's preparations for transfer of management of component I of the IPA programme from the EU to the national authorities have further advanced.

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, both under the Competitiveness and Innovation Framework Programme, Culture 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 (ICTY).

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

Establishment of the legal and institutional set-up required for an independent country is complete. The political consensus on State-building has been further consolidated.

#### *Parliament*

As regards the legislative framework for elections, one of the key priorities set out in the Opinion, amendments to the Law on election of municipal councillors and members of parliament were adopted by a two-thirds majority in parliament in September 2011, thus harmonising it with the Constitution and addressing the main OSCE/ODIHR and Venice Commission recommendations on elections. These amendments implement the constitutional commitment to authentic representation of minorities by introducing a system of affirmative action for representation in parliamentary elections extended to all minorities. They improve the technical side of voting and offer better safeguards for equality of votes.

The powers of the State Election Commission and the system of appointments of its members have been further clarified and political representation of opposition parties in local election

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

commissions has been strengthened. The law also provides for establishing a secretariat of the State Election Commission to assist in administration of elections, as recommended by the Venice Commission and the OSCE/ODIHR. Issues related to the allocation of mandates have been clarified and transparency has been introduced in the publication of results. Exit polls are explicitly allowed. Provisions on media and the prohibition to use State resources for electoral campaigning have been strengthened.

These legal advances need to be complemented in the future as regards a number of pending OSCE/ODIHR and Venice Commission recommendations, in particular those related to the dissolution of coalitions and their funding obligations, and the extension of the mandate of the Central Election Commission to municipal elections. The issue of the constitutional two-year residency requirement before citizens can obtain the right to vote (while reduced to six months for local elections) remains unaddressed for national elections. Although the new provisions provide for 30% of female candidates on the candidate list, gender equality is still not guaranteed in practice as the law does not stipulate that candidates of each gender should be ranked high enough on the list to have a realistic opportunity for being allocated a mandate.

Mechanisms to ensure transparency, accountability and control of financing of election campaigns have been enhanced by a new Law on financing of political parties. Significant efforts will be needed to implement it fully, following its entry into force in January 2012.

With regard to parliament's legislative and oversight role, another key priority set out in the Opinion, parliament has continued its intensive legislative activity. Its administrative capacity to support parliamentary committees has been strengthened, in particular the International Relations and European Integration Committee, which is in charge of coordinating relations with the EU and making sure that new legislation is compatible with the EU *acquis*. Since February 2011, the secretary of each parliamentary committee prepares a report on each proposed draft law with the aim of streamlining discussions and adoption. The technical and documentary support provided by the research department has been considerably strengthened. Most parliamentary committees have adopted an annual work plan and parliament's internal document management procedures have been improved. European integration is a key priority for parliamentary work and consensus between parliamentary parties on EU-related matters remains high. The National Council for European Integration (NCEI) held a conference on the seven key priority areas identified in the Opinion in May 2011, providing a forum for discussion between parliamentary political forces, the government and other stakeholders. However, the NCEI's work and administrative capacity remain uneven. Its role in Montenegro's EU integration process still needs to be further clarified and developed.

Parliament's role of oversight and control of the government has been strengthened, in particular in the areas of security and defence. A number of hearings, including a control hearing, were held. The number of parliamentary questions increased. Measures have been taken to improve transparency and interaction with civil society.

However, parliament is not yet using the full array of oversight tools. In oversight hearings, parliamentary committees do not systematically adopt conclusions and follow-up is limited. Parliament's rules of procedure have not been changed to make it easier for opposition parties to initiate oversight proceedings. In the case of oversight of anti-corruption activities, the members of the national branch of the global organisation of parliamentarians against corruption were appointed in July 2011, as provided for in a 2007 parliament resolution.

However, no special committee of inquiry has been established. Parliament's cooperation with civil society needs to be further enhanced.

The role of the Parliamentary Committee for International Relations and European Integration is often limited to formal checks of the statement of compatibility of new legislation with the EU *acquis* provided by the government. No further compatibility checks take place. The administrative capacity of parliament – albeit strengthened – remains weak and needs to be further consolidated. Parliament's capacity to ensure high-quality legislation in general remains limited and needs to be enhanced. All parliamentary committees still lack sufficient qualified staff.

Efforts to strengthen parliament's administrative and expert capacity and to upgrade its administration have continued. Staff numbers increased from 73 in December 2010 to 90 in May 2011. A large number of training sessions have been provided for staff. However, administrative capacity and other resources required for professional, efficient and transparent work by parliament, including expert support for committees, are limited overall. The lack of office space and technical equipment persists, including for Members of Parliament. Financial and other constraints need to be addressed. Training of existing staff and recruitment of qualified new staff are to be pursued.

*Overall*, the legislative and institutional framework for elections has been considerably enhanced, in line with the recommendations made by the Venice Commission and OSCE/ODIHR. Parliament's functioning has further improved. Consensus between parliamentary parties on EU-related matters remains high. Progress has been made on strengthening parliament's legislative and oversight functions, by means of stronger support to parliamentary committees, better planning of parliamentary work and closer oversight, notably in the areas of defence and security. However, further sustainable efforts are needed to consolidate parliament's legislative and oversight role and to enhance its administrative capacity. Parliament's capacity and means to scrutinise draft legislation against the EU *acquis* need to be upgraded. The role of the National Council for European Integration in Montenegro's EU integration process remains to be further developed. Parliament's cooperation with civil society is to be further enhanced.

### *Government*

On 21 December 2010, then Prime Minister Milo Đukanović resigned from office. On 31 December, parliament approved the new government led by Prime Minister Igor Lukšić, formed by the same coalition as the outgoing government. It has two Deputy Prime Ministers and 15 ministers, one of whom is female.

A number of changes were made to the structure of the government. The Ministry for Foreign Affairs and European Integration took over coordination of European integration from the stand-alone Ministry for European Integration, which was abolished.

The main priorities of the government remain European integration and economic reform, while action has also been taken to strengthen the partnership and consultation mechanisms with the various stakeholders, including civil society. In February 2011, following consultations with a broad range of stakeholders, the government adopted an action plan addressing the key priorities set out in the Commission Opinion. Overall, this action plan has been implemented consistently and systematically. Responsibility for overall coordination of implementation of the action plan lies with the Prime Minister, while the Ministry for Foreign

Affairs and European Integration provides technical support and prepares regular oral and written progress reports to the government.

Due to the focus on the key priorities, progress in other areas of European integration remained uneven. While results remain satisfactory, the abolition of the stand-alone Ministry for European Integration has had a negative effect on the administrative capacity involved in coordination of European integration, which needs to be substantially strengthened.

With regard to local self-government, amendments to the Law on local finances and to the Law on property tax were adopted in December 2010 and entered into force on 1 January 2011. In October 2010, Montenegro ratified the additional protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority. In June 2011, the Government adopted the 2011-2016 development strategy for inter-municipal cooperation in Montenegro, together with the 2011-2013 Action Plan for its implementation. However, enactment of the Law on territorial organisation and of amendments to the sectoral laws is still pending.

*Overall*, with the new government in office, government coordination and policy-making has further improved, particularly the quality of consultations with civil society. However, the overall capacity of ministries to produce high-quality legislation and impact assessments remains limited. The administrative capacity involved in coordination of European integration, including financial assistance, remains weak and needs to be substantially strengthened. Legislative amendments with a view to establishing a transparent, efficient and accountable administration at local level are still pending.

#### *Public administration*

One of the main government activities in the reporting period was to complete essential steps in public administration reform, a key priority set out in the Opinion.

The Public Administration Reform Strategy for 2011-2016, with the accompanying action plan (AURUM), was adopted by the government in March 2011. The strategy includes introducing European standards covering recruitment and promotion and measures to increase the efficiency of the State administration. It also envisages an overall reduction of employment in the public sector; yet, it does not specify how this would be achieved without affecting the performance and efficiency of services. Some measures have already been taken to introduce economies of scale and integrate bodies whose activities have been disparate and uncoordinated (e.g. the various State inspection services).

Some important steps forward have been taken to reform the legal framework governing the civil service, in particular by adopting two essential pieces of legislation: the Law on civil servants and State employees and the Law on general administrative procedure.

Amendments to the Law on general administrative procedure were enacted by the parliament in June 2011. These amendments constitute a first step towards the reform of administrative procedures. Work has been launched to prepare a comprehensive reform with a view to laying the foundations for a modern, citizen-oriented administration. To this end, in July the government adopted a policy paper, containing the main principles and elements for a new law on administrative procedures in line with European values, legislation and practice. It simplifies processes in public administration in line with the principles of efficiency and effectiveness, enforcing transparency and objectivity, accessibility to citizens and NGOs and openness to the use of modern information and communication technologies.

A new Law on civil servants and State employees, based on the principles of merit-based recruitment and promotion, was adopted by the parliament in July 2011. It lays down the main foundations for the establishment of a de-politicised and professional public administration acting effectively and impartially. It improves protection of persons who report possible cases of corruption (whistleblowers) and prescribe the obligation to adopt plans of integrity in the public sector. The law will start applying in January 2013 after the end of a transition period. Preparations for its application are under way. In July the parliament adopted amendments to the Law on salaries of civil servants and state employees, which provides for a transparent salary system for employees financed from the State budget.

In a further positive development, amendments to the Law on public administration, enacted by parliament in July, envisage streamlining of the existing fragmented public administration structure, enforcing accountability and improving the implementation of long-term reform plans. The introduction of the functions of State secretaries and Directors general splits clearly the political and the administrative levels in ministries.

In April 2011, the government adopted a revised rulebook on the internal organisation and job descriptions of the Human Resources Management Authority (HRMA). Its legal mandate is further enhanced by the new Law on civil servants and State employees, which gives the HRMA a stronger role in monitoring implementation of civil service legislation and developing policies for human resources management.

The capacity of the State Audit Institution (SAI) has been strengthened but it needs to recruit more auditors to enhance its capacity to perform audits; also, its managerial and administrative autonomy has to be enhanced. The principles of sound financial management in the public administration have been reinforced by the Law on public internal financial control adopted in March 2011. (*See also Chapter 32 - Financial control.*)

Key e-government legislation has been put in place and campaigns to promote it were launched by the new Information Society Ministry. The relevant parts of the Strategy for Development of the Information Society for 2009-2013 are being implemented and this needs to continue.

Cooperation between the *Ombudsman*, government and civil society has been tightened. His influence has increased substantially and in the vast majority of cases the Ombudsman's recommendations are followed by the relevant institutions, albeit with significant delays. The current financial and human resources of the Ombudsman's Office are not sufficient to carry out all its tasks efficiently. The new Law on the Ombudsman was adopted in July.

*Overall*, Montenegro has taken important steps to address the main challenges posed by the public administration reform. The Government adopted and started to implement a public administration reform strategy. An improved legal framework in the area of civil service and state administration aiming at efficiency, de-politicisation and merit-based recruitment has been adopted. Legislation regulating administrative procedures has been amended and a further comprehensive reform has been launched. The HRMA has been strengthened. Preparations for implementation of the adopted legislation have to be stepped up and focus on enforcing de-politicisation, professionalism and effectiveness and impartiality of the administration, including through merit-based recruitment and promotion. The capacity of the Ombudsman and of the State Audit Institution needs to be further enhanced. Implementation of the Public Administration Reform Strategy needs to take due account of the need to rationalise administrative structures and strengthen administrative capacity, notably in areas

related to European integration, while ensuring the financial sustainability of public administration.

#### *Civilian oversight of the security forces*

Parliament adopted a new Law on parliamentary oversight in the fields of security and defence, which provided additional clarity regarding parliament's role in civilian oversight by defining the obligations of all parties involved.

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

Montenegro has made progress on judicial reform, notably in the form of reinforcing the independence, accountability, impartiality and efficiency of judges and prosecutors, one of the key priorities set out in the Opinion.

Preparations have focused on legislative reforms at sub-constitutional level with the aim of strengthening judicial independence and impartiality within the limits provided by the current Constitution. Amendments to the Laws on courts, the Judicial Council and the State prosecution office were enacted by the parliament in July 2011. In parallel, the process of amending the Constitution was launched and advanced, with a view to further enhance judicial independence by means of de-politicised and merit-based appointments of the Judicial and Prosecutorial Councils' members and of State prosecutors, and strengthen the accountability of the judiciary.

With regard to the *independence* of the judiciary, amendments to the Law on the State prosecution office provided for changes in the composition of the Prosecutorial Council and broadened its scope of action, including on the appointment of the Special prosecutor and in disciplinary proceedings. Amendments to the Law on the Judicial Council provided for increased transparency and involvement of the judiciary in the procedure of appointment of judges and renowned jurists to the Judicial Council, and the involvement of the latter in the process of proposing candidates for the post of Supreme Court President. Candidates for this position have to meet henceforth stricter criteria, introduced by the amendments to the Law on courts. Criteria for first-time appointment of judges and deputy State prosecutors and their subsequent promotion, as well as for the appointment of court presidents and the permanent tenure of State prosecutors have also been laid down. A legal obligation to apply written, anonymous tests for selection of magistrates has been introduced. In September 2011, the Judicial Council appointed the members of the Commission responsible for conducting these tests for the selection of judges. The new criteria for selecting entrants to the judicial system reduce the room for discretion by the Judicial and Prosecutorial Councils and thereby improve transparency in the selection process. However, these selection criteria have not yet been applied in practice. Some of them lack clarity, while the weighting of individual criteria is not fully satisfactory. The merit-based elements of the career system need to be further strengthened.

The procedure to amend the Constitution in the area of the judiciary was launched by the government in June 2011. In July the parliament enacted the decision in principle and charged its Committee for Legal and Constitutional affairs to draft constitutional amendments. A number of alternative amendments were drafted and sent to the members of parliament in July. The amendments envisage new arrangements on the set-up of judicial institutions, aimed at limiting political influence in appointments and broadening judicial independence, notably through the increase of the number of Judicial Council members coming from the judiciary

and a new appointment procedure of the Supreme Court President, involving the Judicial Council. Provisions enhancing the capacity and the independence of the Constitutional Court are also envisaged.

With regard to the *accountability* of the judiciary, amendments to the Law on courts provided an exhaustive list of all possible reasons for disciplinary action against judges and – for the first time – presidents of courts. Amendments to the Law on the Judicial Council provided for the establishment of a commission for monitoring implementation of the code of ethics for judges and the autonomy of action of the disciplinary commission. Members of the latter were appointed in September 2011. Disciplinary sanctions have also been strengthened. Amendments to the Law on the State prosecution office provided for the adoption of a code of ethics by the enlarged session of the Supreme State Prosecutor's Office and list all possible reasons for disciplinary action against prosecutors. Initial efforts have been made to establish a track record on fighting corruption within the judiciary. Nonetheless, corruption and conflict of interest rules are still insufficiently monitored in the judiciary. Both judges and prosecutors continue to enjoy functional immunity from prosecution. Since the entry into force of the Constitution in 2007, two judges have been stripped from their functional immunity. Procedures for removing functional immunity need to be strengthened to ensure full accountability of judges and prosecutors under criminal law. Publicity of court rulings, although foreseen, is not implemented in practice.

Concerning the *impartiality* of judges, random allocation of cases is being consistently implemented in a number of courts with the aid of an IT system. However, *de facto* limitations, particularly in smaller courts, do not fully guarantee random allocation in every case. The IT system in place allows case-tracking and automatic allocation of cases but not statistical reporting or electronic filing of judicial acts.

The envisaged constitutional amendments are expected to significantly reduce the legal possibilities for disproportionate political influence over appointments of magistrates and prosecutors, thus reinforcing judicial independence and prosecutorial autonomy. The envisaged provisions notably foresee that state prosecutors will not longer be appointed by the parliament as well as a new composition of the Prosecutorial Council. Once adopted and in order to become fully operational, these amendments are to be completed with provisions for merit-based judicial appointments via a country-wide single recruitment system and a coherent and stronger system of accountability.

Regarding the *efficiency* of the judiciary, Montenegro has taken further measures to reduce the backlog of cases. With *circa* 12,000 unresolved complex cases from previous years in all courts in Montenegro at the end of 2010, the backlog was approximately 7% lower in 2010 than in 2009. However, concerns persist about the reliability of the statistics and the soundness of the method used. The statistical indicators do not provide complete information about courts' performance, the duration of case-handling and the human and financial resources allocated, thus creating problems with the consistency of data and effective follow-up. The Law on notaries introduced a notary system aiming to reduce the burden on courts and administrative bodies. 34 notaries took up duties in July 2011. The new Law on enforcement and security of claims, enacted by the parliament in July 2011, transferred powers for civil enforcement to the bailiffs. However, enforcement of civil decisions in particular remains weak. Concerns persist over the long duration of court proceedings. The Law on the right to trial within a reasonable time is not yet implemented effectively, as a majority of complaints are rejected on procedural grounds and parties are not properly

notified. The constitutional provision on the right to legal remedy does not fully comply with Article 13 of the European Convention on Human Rights.

The 2011 budget for the judiciary amounts to € 26,5 million, which represents 0,83 % of the GDP. Yet, the majority of the funds have been allocated for the salaries of magistrates, prosecutors and administrative staff. Efforts have been made by the authorities to remedy shortfalls in the judiciary's infrastructure and equipment, but they continue to hinder efficiency. The deadlines for a number of measures in the action plan for implementation of the judicial reform strategy (2007-2012) have been revised. No developments can be reported as regards streamlining the court network. Montenegro continues to be one of the countries with the highest number of basic courts, magistrates, prosecutors and administrative staff in Europe. Determined steps are to be taken to streamline the courts system.

As of 26 August 2011, the new Criminal Procedure Code (CPC) is applied in all Montenegrin courts. The Law on misdemeanours was amended in December 2010. Also, the Law on free legal aid and the Law amending the Criminal Code were adopted in April 2011, aligning their provisions with the new CPC and allowing its application. Twenty nine additional deputy State prosecutors have been appointed and a number of trainings on CPC provisions have been delivered to prosecutors and judges. However, shortcomings remain with regard to the training of judges and prosecutors. There are no permanent mandatory courses and no set curricula. In addition, the Judicial Training Centre depends on scarce financing from the central budget and international donors. Training with set curricula for all members of the judiciary remains to be established. The training provided on implementation of the new CPC remains insufficient, in particular for judges, and is to be enhanced following the full entry into force of the CPC.

*Overall*, progress has been made in the area of judicial reform. The legal framework regarding the independence of the judiciary and the autonomy of the public prosecution office has been improved at sub-constitutional level and the process of constitutional reform has advanced. Provisions on the accountability of judges and prosecutors have been strengthened. Significant efforts will be needed in the period ahead to ensure completion of the legal reform and effective implementation of the newly adopted legislation. A country-wide single recruitment system based on anonymous tests for first-time judicial appointments remains to be established. Systematic training for all judges and prosecutors, in particular on new legislation and EU law, has yet to be put in place. Efforts to reduce the case backlog before courts have been stepped up, but the methodology used needs to become more consistent. The lack of adequate infrastructure and equipment continue to hinder judicial efficiency. Full publicity of court rulings needs to be ensured. The judiciary still has to demonstrate its independence, accountability and efficiency in practice, particularly by producing convincing results, including final decisions on corruption and organised crime cases at all levels.

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

Progress can be reported in the fight against corruption, one of the key priorities set out in the Opinion. Montenegro has made significant efforts to strengthen the legal framework needed for combating corruption and to address outstanding recommendations of the Group of States against Corruption (GRECO). Amendments to the Law on conflict of interest were enacted in July 2011, with the aim of remedying legislative gaps identified in GRECO first and second evaluation rounds. Steps have also been taken to address the recommendations made in the third GRECO evaluation round covering the financing of political parties and incriminations. The provisions of the Criminal Code regulating criminal offences of active and passive

bribery have been amended, with a view to ensure alignment with the Council of Europe's Criminal Law Convention on Corruption and its additional protocol. A new Law on political party financing, enacted in July 2011, brought important legislative improvements in this area. A new Law on public procurement was enacted in July 2011, aimed at reducing opportunities for corruption and increasing transparency in this field. The new Law on civil servants and State employees provided legal protection for whistleblowers.

Some progress has been made on repressing corruption. Steps have been taken to strengthen the institutional and administrative capacity of the prosecutors and police to fight corruption. A special anti-corruption investigation team has been established, made up of representatives of the police administration, the Office for prevention of money laundering and terrorism financing, the tax and customs administrations, and reporting to the Special Prosecutor for organised crime, corruption, terrorism and war crimes. Montenegro has made efforts to establish a solid track record of proactive investigations, prosecutions and convictions in corruption cases at all levels, which is part of the Opinion key priority on anti-corruption. In December 2010, a High court judge was sentenced in second instance to seven years of imprisonment for passive bribery. Nine persons were sentenced in first instance to imprisonment for abuse of official positions and bribery in June 2011. During the reporting period, 28 persons have been indicted in three cases of abuse of official position and bribery. Among them is a high level corruption case, involving the at the time Mayor of Budva, his Deputy and a Member of Parliament.

Prevention has been tightened, with a number of awareness-raising campaigns and opinion polls conducted by the Directorate for Anti-corruption Initiatives (DACI). In July 2011, the Government adopted a risk assessment of areas vulnerable to corruption. Six areas of particular risk have been identified: local self-government, spatial planning, public procurement, privatisation, education and healthcare. The assessment acknowledged the need for more precise mechanisms for implementation and monitoring of anti-corruption initiatives as well as improvement of the reporting methodology used by the Tripartite Commission for corruption and organised crime cases. The Judicial Training Centre adopted training programme for judges and prosecutors in the area of anti-corruption and conducted a number of trainings and seminars in this field. Specific trainings have been provided to judges and prosecutors to facilitate implementation of the new Criminal Procedure Code.

Progress has been made in the implementation of the government's anti-corruption strategy and action plan, which is part of the key priority set out in the Opinion. In July, the Government adopted a revised 2011-2012 Action Plan for the implementation of the Strategy for fighting corruption and organised crime, comprising a number of new measures and improved indicators. The National Commission responsible for monitoring the implementation of the Action Plan adopted its first report in April 2011. It approved new rules of procedure, providing the possibility for the National Commission to centralise corruption-related complaints and request *ad hoc* reports on corruption from State agencies. The sessions of the National Commission became fully open to the public in June 2011. Cooperation with civil society in the fight against corruption has improved significantly. NGOs have actively contributed to enhancing the strategic framework, providing evidence for initiating corruption cases and producing surveys.

However, corruption remains a serious concern. Implementation of the new anti-corruption legislation is yet to start. Proper impact assessments need to be developed, including plans for the necessary human and financial resources and preparations for implementation. The full entry into force of the new provisions of the CPC and the Criminal Code has not been

sufficiently prepared and will require additional training, in particular for judges. The independence of the judiciary remains a matter of concern affecting the determination to combat corruption.

Despite a positive trend, the track record in combating corruption needs to be further developed. Final convictions remain limited, in particular for high-level corruption cases. The number of corruption cases in which seizure or confiscation of assets were ordered is still very low. Provisions of the CPC and the Criminal Code on extended confiscation of criminal assets have not yet been used. No progress can be reported as regards the work of the State agency responsible for the confiscation of criminal assets. Further efforts are needed to strengthen its institutional and administrative capacity. The capacity of prosecutors and police to conduct financial investigations, trace criminal assets and present related evidence before the courts remains to be improved. The level of inter-agency cooperation and information exchange between the different law enforcement agencies and the prosecutor's office remains to be enhanced. Cooperation and coordination between police and prosecutors in particular need to be improved. Prosecutors' lack of access to the national database of the police and their possibility to delegate investigation to the police only in exceptional circumstances considerably hamper implementation of the new CPC. Use of special investigative measures is impeded by the lack of adequate equipment and specialised human resources.

Implementation of the new legislation on financing of political parties and election campaigns is yet to start. Concern remains over the insufficiently dissuasive and undifferentiated sanctioning system, the regime and ceiling of membership fees, as well as the capacity of the State Electoral Commission (SEC) to ensure a fully effective independent oversight. Few sanctions for non-compliance with the law have been applied by the supervisory bodies. The asset declarations of civil servants are still not being checked on substance to identify illicit enrichment. There is still no second-instance body responsible for supervising implementation of the Law on free access to information, nor have there been amendments to the law. The rules of procedure of the public administration, including appointment and internal control, have not fully integrated every aspect of prevention of corruption and conflicts of interest. Disciplinary provisions remain inefficiently implemented in practice.

*Overall*, implementation of the government's anti-corruption strategy and action plan, part of the key priority identified in the Opinion, has continued. The strategic and legislative frameworks have been strengthened in the key areas of political party financing, conflicts of interest, whistleblowers, incrimination and public procurement. Risk analyses of areas vulnerable to corruption were completed with a view to further fine-tuning prevention policies. The technical and administrative capacity for preventing and fighting corruption has been upgraded. Steps have been made to establish a solid track record of proactive investigations, prosecutions and convictions in corruption cases at all efforts, which is part of the Opinion key priority on anti-corruption. Yet, efforts need to be stepped up to further develop it. The number of final convictions, in particular for high-level corruption cases, remains low. Use of special investigative measures continues to be impeded by the lack of adequate equipment and specialised human resources. Inter-agency coordination and, in particular, cooperation between prosecutors and the police need to be further improved. Implementation of the legislative framework remains uneven. The newly enacted provisions in the areas of conflict of interest and political party financing need to be implemented with determination. There continues to be a need for stronger monitoring of corruption and conflicts of interest in the judiciary. Corruption remains prevalent in many areas and continues to be a serious problem.

## 2.2. **Human rights and the protection of minorities** (see also chapter 23 - Judiciary & fundamental rights)

### *Observance of international human rights law*

With regard to ratification of **international human rights instruments**, Montenegro has complied with all its formal post-accession commitments before the Council of Europe and has also ratified the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. It has also signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. However, the Constitution (Article 20) has not yet been aligned with Article 13 of the European Convention on Human Rights (ECHR) to safeguard the right to an effective remedy before national authorities for violations of rights under the Convention. Implementation of international human rights standards continues to be restricted to cases of conflicts with domestic legislation.

As regards the **European Court of Human Rights** (ECtHR), efforts are being made to improve national courts' compliance with ECtHR case law, in particular by providing training for judges and prosecutors and ensuring better dissemination of the relevant case law. During the reporting period, the Court delivered 2 judgements finding that Montenegro had violated rights guaranteed by the European Convention on Human Rights (ECHR). One related to freedom of expression, the other to the right to a trial within a reasonable time. A total of 275 new applications allocated to a decision body have been made to the ECtHR since October 2010. In September 2011, 820 allocated applications regarding Montenegro were pending before the ECtHR. Most of these cases are related to non-implementation of court decisions, non-alignment of domestic jurisprudence with the case law of the Court, freedom of information, access to justice and length of procedures, .

As regards **promotion and enforcement of human rights**, some progress has been made. The influence of the Protector of Human Rights and Freedoms (Ombudsman's) Office is increasing considerably. Its cooperation with civil society has been enhanced substantially, along with its involvement in promoting the rights of the most vulnerable groups. The law establishing the Ombudsman as the national authority for combating discrimination and preventing torture and ill-treatment was adopted in July. For this law to be properly implemented, the Ombudsman's Office needs to be provided with sufficient financial and human resources to carry out its tasks efficiently.

The Ministry for Human and Minority Rights is involved in anti-discrimination training and awareness-raising. However, its broader role and leadership of the fight against discrimination remain limited. The Parliamentary Committee for Human Rights and Freedoms has stepped up its activities and cooperation with civil society. Its influence nonetheless needs to be further strengthened. Courts have started to refer to ECtHR case law. However, protection of human rights by law enforcement authorities presents shortcomings, particularly as regards alignment with European standards and ECtHR case law.

### *Civil and political rights*

Montenegro made progress on enhancing media freedom, one of the key priorities set out in the Opinion; the legal framework has been improved and a sustainable implementation needs now to be ensured.

Some progress has been made on prevention of **torture and ill-treatment** and the fight against impunity. The new Law on the Ombudsman has given him competences in preventing

torture and ill-treatment. Prison staff and members of the security department responsible for human rights and resolution of incidents have undergone further training. However, occasional cases of violence continue to be reported, in particular in police stations. Processing of reported cases continues to be slow. The number of final judicial decisions remains low.

Some progress has been made regarding the **prison system**. The Parliament enacted amendments to the law on execution of criminal sanctions in July 2011, providing for the establishment of a probation department within the Ministry of Justice and introducing alternative sanction measures for minor criminal offenders. Preparations for its implementation are underway. However, the position of the new Deputy Minister foreseen to lead the department has not been filled yet. Some rehabilitation work has been carried out on prison facilities and four new buildings were constructed and put in use. Furthermore, an amnesty law passed in July last year resulted in the reduction in the number of detained persons. Yet, prison overcrowding remains a problem and conditions, although improving, are still not in line with international standards, notably regarding provision of medical treatment and family rooms. Detention conditions in Spuz prison have improved, while those in Bijelo Polje facility remain an issue of concern.

Progress has been achieved on **access to justice**, with the adoption of the Law on free legal aid in April. However, the duration of court proceedings remains a cause for concern.

**Freedom of expression** is, overall, respected in Montenegro. Progress has been made towards enhancing media freedom, one of the key priorities set out in the Opinion. Provisions related to defamation and insult have been removed from the Criminal Code. The Supreme Court laid down guidelines for the courts regulating the level of pecuniary compensation in defamation cases against media in line with the case law of the European Court of Human Rights and organised related training for judges. The number of cases lodged against media for defamation was reduced. Courts have started to use ECtHR case law to shape their rulings. There have been no further incidents of physical violence against journalists. High State officials have promoted a more favourable and safer environment for investigative journalism.

However, there have been a few incidents whereby vehicles belonging to a daily newspaper were set on fire. The attacks were condemned by high state officials, but no progress was made yet in investigating the case. Furthermore, previous cases of violence against journalists, including a murder case, have not yet been properly investigated and processed. Further efforts are needed in this area. Sound implementation by all courts of the Supreme Court guidelines on the treatment of defamation remains to be confirmed, including in the appeal cases pending before the High Court. Compliance of journalists with professional ethics and standards is still not satisfactory, notably regarding respect of the privacy and dignity of children in the media. The media self-regulatory body is not functioning.

The financial independence of the audiovisual regulator and strengthening of its monitoring capacity are still lagging behind, pending full adoption and implementation of administrative decisions and by-laws. Efficiency, professionalism and independence of the public broadcaster have still not been fully achieved, notably due to problems with its financial sustainability, an insufficiently merit-based approach to staff management and adequacy of the representation of civil society on its board.

**Freedom of assembly and association** are, overall, respected in Montenegro. Very good progress has been made on cooperation between State institutions and civil society

organisations, which is one of the key priorities set out in the Opinion. The institutional framework for such cooperation has been strengthened. The Council for Cooperation with NGOs has started functioning as an independent advisory body to the government on issues related to civil society. Contact points for cooperation with NGOs have been established in all the ministries and most other State bodies. NGOs are now regularly involved in the legislative and policy-making or monitoring process, including in such sensitive fields as the fight against corruption or the efficiency of the judiciary. The highest State authorities have regular contacts with NGOs, and the attitude of all stakeholders has become open and constructive. Efforts to improve cooperation with civil society are also being made at local level. The legal and regulatory frameworks for NGOs' activities and State financial support to these organisations have been improved, notably through the adoption of a new Law on NGOs. The register for civil society organisations has been updated and digitalised, and it is now available on the website of the Ministry of Interior. The dialogue with NGOs representing or dealing with the most vulnerable groups and gender equality is still not fully satisfactory. No amendments have been made to the Law on volunteer work to alleviate the conditions for voluntary activities in NGOs.

Regarding **freedom of thought, conscience and religion**, inter-faith relations have remained smooth overall. However, tensions remain between the Serbian and Montenegrin Orthodox Churches over canonical recognition and property issues, which have occasionally become factors in party-political relations.

*Overall*, progress has been made on improving the legal and regulatory framework and enforcing civil and political rights in Montenegro. However, shortcomings remain with the fight against ill-treatment and impunity, access to justice and the prison system. The role of law enforcement authorities in protecting media freedom remains to be strengthened, in line with European standards and the case law of the European Court for Human Rights. The quality and sustainability of the dialogue between the State institutions and civil society representatives, in particular with NGOs dealing with the most vulnerable groups, remain to be further strengthened.

#### *Economic and social rights*

Montenegro has made progress on anti-discrimination, which is a key priority set out in the Opinion. The legal and policy framework has been strengthened; however, implementation remains a challenge. There has been some progress with promoting **women's rights and gender equality**. Training for labour inspectors and trade unions has been launched, along with public awareness-raising campaigns on gender equality. Activities to empower women in employment have been carried out, including in rural areas. The arrangements guaranteeing equal earnings have been improved. Awareness-raising and legislative efforts have been undertaken to increase women's representation in elected offices at national and local levels.

Some progress has been made also on enforcement of women's rights. The government adopted in June the Strategy for protection against domestic violence for the period 2011-2015. Awareness-raising campaigns against domestic violence have been carried out. One of the NGO-run shelters for victims of domestic violence has received State financial support until the end of 2011 but it is still not clear whether new funds will be allocated for 2012. A service has been set up to provide victims with information on procedures and the steps to be taken. However, state activities to protect victims of domestic violence are lagging behind. In particular, sustainable financing of shelters, setting up multidisciplinary support teams and processing reported cases of violence are not always satisfactory. Violations of women's

employment rights, including to equal pay, are rather widespread. Women remain under represented in decision making positions in the public and the private sector.

Some progress has been made on protecting **children's rights**. The capacities of the Council for the Rights of the Child have been strengthened. A network of day-care centres has been set up for children with disabilities. Awareness-raising campaigns on children's rights have been stepped up (e.g. for Roma, Ashkalis and Egyptians and for children with disabilities). However, institutions dealing with enforcement of children's rights lack the necessary capacity and efficiency. Additional efforts are required to secure better inclusion and access to education for children with disabilities, particularly those with mental difficulties. Deinstitutionalisation and foster or community-based care remain at an early stage, notably for children from the Komanski Most institution. Implementation of the strategy on early and pre-school education and adoption of the Law on juvenile justice are still pending. Serious violations of children's rights to privacy and dignity by the media continue to occur.

Progress has been made with enforcing the rights of **socially vulnerable persons and/or persons with disabilities**. The Law against discrimination against persons with disabilities and the Law on professional rehabilitation and employment of persons with disabilities have been adopted. Awareness-raising campaigns and training sessions for civil servants have been carried out. Inclusive educational activities have been launched, in cooperation with relevant international organisations. The network of day-care centres for children with disabilities has been extended. Efforts have been made to promote employment of persons with disabilities, notably by improving the legal framework and stepping up the activities of employment offices.

However, the legal framework governing the rights of persons with disabilities is still not fully satisfactory, both regarding positive action and the sanctions mechanisms. Awareness-raising activities have not been coordinated with representatives of persons with disabilities. Access to education and deinstitutionalisation of children, in particular those with a mental disability, is at a rather early stage. Persons with disabilities have very limited access to employment, including in public institutions. Operation of the Fund for employment of persons with disabilities is not fully satisfactory. Public places remain poorly adapted to the needs of these persons. Conditions in the Komanski Most institution are not fully aligned with European and international standards, notably regarding accommodation of female inmates and insufficient separation of adult from juvenile patients. State assistance to persons with disabilities and their primary carers remains to be strengthened, including the role of social care centres in this field.

As regards **anti-discrimination policies**, one of the key priorities set out in the Opinion, progress has been made. The Law on the Ombudsman was passed in July; with the new legal provisions, he has now responsibility over cases of anti-discrimination. The commitment of the government on this issue has been strengthened; an advisor on human rights and anti-discrimination was appointed in September in the Prime Minister's office. A Council for the protection against discrimination has been established, chaired by the same Prime Minister; it is tasked to monitor and coordinate activities on anti-discrimination by different authorities. Awareness-raising campaigns on the inclusion of the most vulnerable groups have been carried out, along with training for law enforcement agencies and civil servants. A reporting mechanism has been defined. However, effective implementation of the anti-discrimination law still remains a challenge; Roma, Ashkalis and Egyptians, persons with disabilities and lesbian, gay, bisexual and transgender (LGBT) persons are still subject to discrimination in practice, including on the part of State authorities. The capacity of the Ombudsman's Office to

effectively address cases of anti-discrimination remains limited, as well as processing discrimination cases by law enforcement bodies. Furthermore, the alignment of anti-discrimination law with the *acquis* remains limited as there are cases in which it still permits direct discrimination and it fails to include an obligation for employers to provide reasonable accommodation for persons with disabilities.

As regards the rights of lesbian, gay, bisexual and transgender (LGBT) persons, some progress has been made. The State authorities, notably at the highest level, have shown greater openness to respecting the rights and situation of this population. Government work towards finalising an LGBT action plan has advanced and a conference to promote anti-discrimination was organised by the government in September in Podgorica. The Police Directorate signed a Memorandum of Understanding with the relevant NGO, allowing a peaceful rally of the gay population. However, LGBT persons continue to be subject to serious threats, while some cases of violence have been reported. Legal processing of cases reported to the police has not started. Involvement of the Ministry of Human and Minority Rights in protecting the rights of LGBT persons is insufficient. Public homophobic statements are still being made, including by politicians.

Some progress has been made as regards **labour and trade union rights**. The amendments to the Law on the Social Council enhanced the independence and administrative, technical and coordination capacity of the national Social Council and strengthened the work of the social councils at municipal level. However, bipartite social dialogue and the development of autonomous social dialogue remain insufficient, especially at local level; the Social Council secretariat provided by the law has not been set up yet. Yet, implementation and enforcement of labour law remains a serious challenge. The law on trade union representativeness is being implemented but procedures to check member lists are not in line with European standards on data protection.

Limited progress has been made on **property rights**. The government set up specific commissions to deal with denationalisation issues, but the process of restitution remains very slow and needs to be accelerated. Furthermore, the transparency of the procedure is not fully ensured. No efforts were made to solve cases of property subject to restitution which has been privatised in the meantime. The Parliament adopted in June amendments to the Law on State Survey and Immovable Property Cadastre; however, the operations of the land register system remain to be improved, particularly regarding the completeness and accuracy of the data and its national coverage. No progress has been reported on legal regulation of the restitution of property taken from religious communities after 1945. Due to several cases of forgery of property documents, measures have been taken to strengthen control over the land registry offices.

*Overall*, Montenegro has made some progress on improving the legal framework, awareness-raising and training of civil servants regarding economic and social rights. However, enforcement of these rights remains rather limited, in particular for the most vulnerable groups and gender equality, including the fight against domestic violence.

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

Some progress has been made in the area of protection of **minorities** and **cultural rights**. The Law on minority rights was amended to harmonise it with the Constitution and introduce a guarantee of authentic representation of minorities in parliament and local assemblies. The amendments also set more precise criteria for the composition and functioning of Minority

Councils. Some progress has been made as regards cooperation between the authorities and Minority Councils, notably in the form of regular meetings with the Ministry of Human and Minority Rights. Inter-ethnic relations are good, overall, including management of sensitive issues of ethnicity and language in the population census. There have been occasional tensions, in particular between Montenegrins and Serbians as regards identity and language questions. Yet, a broad consensus has been reached on the use of the official language, and other languages in official use, in schools' curricula according to the constitutional guarantee to persons belonging to minority nations and other national communities to obtain education in their own language. In implementing this agreement attention should be made to the respect of the sensitivities of the various communities. Persons belonging to minorities remain under-represented in public institutions. Functioning of the Minority Fund is still not fully satisfactory when it comes to allocating funds and monitoring the use made of them.

Progress on inclusion of **Roma, Ashkali and Egyptian (RAE)** persons still remains rather limited, despite continuing efforts by the authorities at national and local levels in cooperation with relevant international organisations and civil society representatives. Efforts have been made to implement the strategy for 2008-2012 to improve the status of Roma, Ashkali and Egyptian population, with the support of a monitoring commission where representatives of the RAE society are involved. The State has financed the setting-up of a Roma radio station.

Progress has been made to facilitate civil registration of RAE population. The amendments made to the law on citizenship in March 2011 have extended the deadline to request the Montenegrin citizenship by 31 July 2012, under easier conditions, for those who already resided in Montenegro before June 2006. However, lack of proper civil registration continues to affect a large number of RAE persons; a number of domiciled RAE persons still have not been able to obtain Montenegrin citizenship. Insufficient pre-school and secondary education enrolment and high drop-out rates, particularly among girls, remain to be addressed. Scholarships and other forms of financial support are available for RAE students; however it needs to be strengthened and mainstreamed through the relevant strategies, aiming at a better coordination between the different programs in support to education. Illiteracy remains widespread. Discrimination is prevalent in access to employment, despite incentives for employers; vocational trainings are offered to RAE job seekers, but they are not fully adapted to the need of these persons nor to the opportunities offered by the job market. Recruitment of RAE graduates in the public sector is at an early stage. Problems still exist with access for RAE persons to satisfactory living conditions and to social and health care. Efforts to fight child begging and domestic violence in RAE families need to be intensified, taking into account the gender dimension in the formulation of adequate policies. No progress has been achieved regarding political representation of RAE persons.

Some progress has been made on improving the situation of **displaced persons**, which is one of the key priorities set out in the Opinion. There are currently over 15,000 displaced persons originating from Croatia, Bosnia and Herzegovina and Kosovo in Montenegro. Since February 2011, the authorities have stepped up their efforts to give these persons legal status, notably via awareness-raising campaigns in cooperation with relevant international organisations and closer cooperation with the countries of origin to facilitate access by the persons concerned to the necessary supporting personal documents. In July 2011, the government adopted the "Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons in Montenegro, with special emphasis on the Konik area". The new strategy replaces the 2009 Action Plan and confirms the extension of the 7 November 2011 deadline for applications for foreigner with permanent residence. The deadline for

adoption of the amendment to the law is October 2011. The strategy outlines action for facilitating access to documents for vulnerable persons. However, mainly due to cumbersome procedures, including the costs of collecting supporting documents from their countries of origin, around 30 % of displaced persons submitted relevant applications and less than 20 % of them obtained legal resident status. Smaller numbers have obtained temporary status, while around 600 have qualified for citizenship rights. Return to countries of origin continued but overall numbers remain limited. Efforts to accelerate the process of voluntary return for persons originating from Kosovo have been made, but results remain limited. Further efforts are needed by both Montenegro and Kosovo to remove remaining obstacles and facilitate return.

According to the strategy and in line with the extension of the deadline for applying for permanent residence, the validity of the decree which currently gives displaced persons access to social and economic rights will be extended. The strategy also commits to harmonise basic laws with the Law on Foreigners to ensure full access of displaced persons to economic and social rights. Several laws still have to be adopted or amended to this effect. Currently, enforcement of these rights remains insufficient. The new strategy outlines a durable solution to the Konik area but implementation is still at a very early stage.

*Overall*, interethnic relations remain smooth in Montenegro. However, progress on economic, social, cultural and political inclusion of Roma, Ashkali and Egyptian persons remains limited.

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

With regard to cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)**, in the reporting period Montenegro neither received requests for assistance nor had cases referred back to its national authorities from the ICTY for possible further investigation. Out of the four local war crimes cases in Montenegro, three are in the trial phase and one in the pre-trial phase. The government supported the campaign to construct a memorial for victims of the 1992 deportation war crimes. Yet, so far, treatment by the Montenegrin court of the case of deportation of Bosniaks in 1992 is not fully aligned with ICTY case law.

Montenegro has aligned with the Council Decision advancing universal support for the **International Criminal Court** and promoting the widest possible participation in it<sup>5</sup>. However, it still maintains the 2007 bilateral immunity agreement with the United States granting exemptions from the jurisdiction of the International Criminal Court. This does not comply with the EU common positions on the integrity of the Rome Statute or the related EU guiding principles on bilateral immunity agreements. Montenegro needs to align with the EU position.

Significant progress was made with regard to the **Sarajevo Declaration Process**, launched on 31 January 2005. Bosnia and Herzegovina, Croatia, Montenegro and Serbia are cooperating within this process to find solutions for refugees who were displaced as a result of the armed conflicts in the former Yugoslavia between 1991 and 1995. The countries have continued to make progress on a number of outstanding issues, such as data exchange, civil documentation, public information, pensions and trust fund mechanisms, in the established regional working groups. Following the meetings of June and September 2011, Bosnia and Herzegovina,

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<sup>5</sup> Council Decision 2011/168/CFSP of 29 March 2011.

Croatia, Montenegro and Serbia agreed on a number of issues, including on the text of a joint declaration to be signed at a ministerial conference in November 2011 in Belgrade. A regional multi-year programme aimed at addressing the needs of the most vulnerable refugees, has also been agreed, together with a donors' conference to be held in the first half of 2012 in Sarajevo.

**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. Over the reporting period, it chaired the Central European Initiative (CEI), the South-East European Cooperation Process (SEECP), the US-Adriatic Charter, the Adriatic-Ionian Initiative (AII), the Regional Anti-Corruption Initiative (RAI) and the Multinational Advisory Group of the Centre for Security Cooperation. Montenegro has also renewed its partner status in the sectoral dialogue in the Organisation for Black Sea Economic Cooperation (BSEC). Within the SEECP, in March Montenegro endorsed the *Regional Strategic Document and Action Plan on Justice and Home Affairs 2011-2013*. Montenegro is also continuing to participate actively in the Regional Cooperation Council (RCC), the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty, the European Common Aviation Area Agreement, and the EU Strategy for the Danube region. Montenegro continues actively to support the Igman initiative on reconciliation, which brings together NGOs from Bosnia and Herzegovina, Croatia, Serbia and Montenegro. Montenegro supports the RECOM initiative.

As regards regional judicial and police cooperation, Montenegro has ratified and started to implement extradition agreements with Croatia and Serbia covering own nationals involved in serious and organised crime. An equivalent agreement was also signed with the former Yugoslav Republic of Macedonia. Agreements on police cooperation were signed with Croatia and Serbia. Montenegro ratified the agreements with *Bosnia and Herzegovina* on mutual legal assistance in civil and criminal matters and on mutual recognition of decisions in criminal matters.

Montenegro continues to maintain good **bilateral relations with other enlargement countries and the neighbouring EU Member State Italy**. However, delimitation of borders with Croatia, Serbia, Bosnia and Herzegovina and Kosovo remains pending. The agreement on dual citizenship with the former Yugoslav Republic of Macedonia remains the only agreement of this kind with another country in the region.

Relations with *Albania* have remained good. Cooperation between the two countries focused on economic and trade relations.

Relations with *Bosnia and Herzegovina* have continued to improve. Three agreements were signed relating to border crossings for local and international transport and defence. Agreements on cooperation in the field of tourism and exchange of data with regard to social insurance entered into force.

Montenegro continued to maintain good relations with *Croatia*. The two countries signed an agreement on the extradition of citizens sentenced for corruption and organised crime. A number of technical meetings have been held to prepare the joint submission of the Prevlaka border delimitation to the International Court of Justice, but no substantial progress has been achieved to date. The temporary agreement continues to function smoothly, but a permanent solution is necessary.

Relations with the *former Yugoslav Republic of Macedonia* remained good. Bilateral agreements were signed on economic and social cooperation and on cooperation in the fields of education, science and technology. Agreements on bilateral investment protection and on coordination of social security systems were concluded. Furthermore, the two countries have also signed an agreement on extradition of citizens involved in organised crime, corruption and money laundering.

Relations with *Serbia* remained good, overall. Cooperation is developing, in particular in the economic, environmental and scientific fields. Serbia opened a consulate-general in Herceg Novi. However, some issues concerning the dissolution of the State Union still remain to be solved, such as finalisation of the distribution of assets and liabilities and citizenship rights, particularly concerning dual citizenship.

Montenegro continued to maintain good relations with *Kosovo*. A bilateral agreement relating to registration of displaced persons from Kosovo living in Montenegro entered into force on 29 June. A readmission agreement was signed on the same day. Yet, the demarcation process has not progressed, notwithstanding the existence of a commission specifically responsible for it. The issue of explicit recognition of the Montenegrin minority in Kosovo remains pending.

Relations with *Turkey* are good. Turkey provided humanitarian assistance to Montenegro following the floods that affected the country in December 2010.

*Overall*, Montenegro continues to satisfy the Stabilisation and Association Process conditionality on cooperation with the ICTY and regional cooperation, despite some outstanding bilateral issues.

### **3. ECONOMIC CRITERIA**

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

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

##### *Economic policy essentials*

Montenegro has been playing an active part in the EC fiscal surveillance and reporting arrangements applying to potential candidate countries since 2006. It participated for the first time in the EU multilateral fiscal surveillance procedure for candidate countries, including the ministerial dialogue with the ECOFIN Council in May 2011. The country's 2011 Economic and Fiscal Programme presented a cautious macroeconomic baseline accompanied by an expenditure-based fiscal consolidation framework, plus a wide structural reform agenda that was consistent with past priorities. Meanwhile, a domestic political consensus was maintained on the fundamentals of a market economy. *Overall*, economic policy remained consistent.

##### *Macroeconomic stability*

The economy started to recover in 2010 from the effects of the crisis, growing by 2.5%, after contracting by 5.7% a year earlier. The first signs of revitalisation appeared in the second quarter of 2010 after 18 months of continuous contraction. Growth was driven by net exports,

private consumption and changes in inventories. From the supply side, the turn around of the global metal market gave an additional boost to local industries, raising total industrial production by 17.5% in 2010. Manufacturing output accelerated further by 9.6% on average during the first seven months of 2011. However, the overall industrial production rose much more modestly, by 0.2% year-on-year in July, as the utility sector output still remained below previous year level by -30%. The construction sector accelerated rapidly in the last quarter of 2010, with the value of performed construction works expanding by 13% in 2010, compared with the contraction of 21% recorded a year earlier. The value of finalised construction works expanded in the first six months of 2011 by 30.8% year-on-year. Retail sales which had shown a modest increase in 2010 (1.6%) increased further during the first half of 2011 by 14.3% year-on-year. Average per-capita income in purchasing power standards amounted to 40% of the EU-27 average in 2010, down from 41% in 2009. *Overall*, a modest recovery of the economy is underway.

While domestic demand remained subdued in 2010, industry's recovery contributed to a 20% increase of total merchandise exports, with exports of aluminium accounting for 41% of this increase. At the same time, merchandise imports remained virtually flat. As a result, the large trade deficit dropped to 42% of GDP in 2010, from 46% a year earlier. After a successful tourism season the surplus in services increased by 16%, supporting the contraction of the current account deficit in 2010 down to a still very high 25% of GDP, from 30% a year earlier. The current account deficit contracted further during the first half of 2011 by 12.5% year-on-year to 22.4% of GDP in annualised terms. The improvement was mainly driven by a widening surplus on the services and income accounts. In 2010 the current account deficit was largely covered by net FDI and net portfolio investments, contributing 17% and 6% of GDP respectively. In the first half of 2011 net FDI inflows contracted by 45% year-on-year to 13% of GDP or 60% of the current account deficit. The surge in net portfolio investments during the same period contributed with additional 11% of GDP, financing 40% of the deficit. *Overall*, despite the continuous expansion of merchandise exports, these still remain below pre-crisis levels.

Unemployment in 2010 remained high at 19.7%, up from 19.1% a year earlier. Employment contracted by 7.1% in the same period. The unemployment rate continued growing in 2011. It reached 19.9% in the second quarter of 2011. According to the Agency for Employment (AEM), recorded employment improved during the first half of 2011; increasing by 6.6% year-on-year, while job vacancies increased by 18% year-on-year. The AEM registered unemployment rate decreased to 11% in July 2011, down from 12.2% at the end of 2010. There remain significant discrepancies in labour statistics between Labour Force Surveys (LFS) and the Agency for Employment (AEM) administrative records. Further efforts are also needed to address the high level of informal employment, estimated by the AEM at 20% of total employment in 2010. *Overall*, the labour market deteriorated during 2010, but shows mixed signs of improvement in 2011.

Consumer prices remained subdued during 2010, thanks to a reduction in food prices, and the reduction of annually adjusted electricity prices. Headline inflation averaged at 0.5% in 2010 and picked up slightly to reach 0.7% year-on-year in December. Inflation accelerated further in 2011, averaging 2.9% on the first seven months of the year driven by food, transport, health and communication prices, as well as the increases in excise rates on alcohol and tobacco. *Overall*, price stability was generally maintained amid recent external pressures.

Unilateral euroisation implies that there is only limited scope for the use of domestic monetary policy instruments. The Central Bank's capabilities as lender of last resort are

restricted and the ultimate stability of the financial system relies on its banks' supervision and on the soundness of the government fiscal policy. The banking system seems to have stabilised somewhat in 2010 and the Central Bank has been strengthening its supervisory capacities. Bank deposits contracted by 1.9% in 2010 but they recorded positive growth rates during the first half of 2011. However, the aggregated level of bank loans remained in negative territory during the same period, contracting by 12.4% year-on-year at the end of June 2011. The seven mid-sized and smaller banks recorded 12% annual credit growth in the first half of 2011, while the four largest registered 32% contraction. *Overall*, the largest banks could not support the economy by providing new credits as they were pursuing their consolidation.

In 2010, the consolidated budget deficit stood at 5% of GDP, including tax arrears worth some 2% of GDP. Moreover, the level of contingent liabilities due to extended guarantees represented 10.3% of GDP at the end of 2010. Budget revenues totalled 42% of GDP. The effects of the crisis translated into the contraction of 1.8% in VAT revenues and tax receipts down by 5.1%, plus the sharp 63% contraction of corporate income tax owing to the weak financial position of businesses. Revenues from personal income tax, social security contributions and local taxes exceeded the plan. Public expenditures reached 45% of GDP, as gross wages increased by 2.4% and social protection transfers (mostly pensions) by 4%, while subsidies contracted by 12% compared with the planned spending level. Implementation of capital expenditure remained flat and lower than planned as the highway works were postponed. The consolidated deficit reached 1.6% of GDP in the first half of 2011. Public debt without state guarantees accounted for 41% of GDP in 2010 as against 38% a year earlier. The increase was a consequence of the rapid expansion of the external debt, which accounts for 72% of the total. The public debt increased further following the new issue of Eurobonds in April 2011, reaching 45% of GDP by the end of June. *Overall*, past efforts at expenditure control have resulted in large arrears accumulation and led to substantial contingent liabilities.

The global economic and financial crisis has posed a challenge to Montenegro's policy framework. 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. The quality of public finances was improved with the adoption of important structural reforms, such as the public pension system, the streamlining of public employment, or a new financing scheme for local self-governments, although the full effect of these reforms will take still some time to get through. The Montenegrin economy remains constrained by limited diversification and competitiveness. *Overall*, despite the implicit constraints in the form of a limited set of policy tools, the overall macroeconomic stability improved compared to 2010.

#### *Interplay of market forces*

The majority of state ownership in the economy remains predominantly concentrated in transport (rail, port, airline and airports), and to a lesser extent in the metal and electric power industries, as well as in a few miscellaneous companies. In 2010, only maritime operator services of the port of Bar were successfully privatised, as well as some property of tourist company Budvanska Rivijera and the Bijela shipyard. The privatisation process suffered from the global crisis. Some companies repeatedly failed to attract interest from investors (in the case of the port container terminal and rail cargo due to the need for prior reconstruction of the railways) or went into bankruptcy proceedings (the steel mill and the tobacco factory). In August 2011 Italian power utility A2A, which owns 44% of Montenegro state power

company EPCG, waived its right to acquire majority ownership after the government reversed a 2009 decision to majority-privatise the company. *Overall*, majority state ownership remains concentrated in network industries.

Only a limited number of products are currently subject to administrative price control, including medicines, bread and fuels. Meanwhile the Energy Regulatory Agency (ERA) establishes electricity prices in relation to production cost thresholds. In addition, local authorities may control the prices of certain utility services (water supply, sewerage, refuse collection). In the absence of controls on the price of food other than bread, the government approved the payment of two one-off cash benefits in 2011 (totalling € 2 million) targeting the most vulnerable social groups. Administered prices accounted for 10.7% of the harmonised index of consumer price (HICP) in 2010. *Overall*, the influence of the state in price dynamics remains limited.

#### *Market entry and exit*

In 2010 there were 3,695 new companies registered in Montenegro, which is an increase of 6.8% in the number of new registrations compared with 2009. Improvement in market entry was achieved with the establishment in May 2011 of a 'one-stop shop' for new company registration and simultaneous tax and customs listing instead of having to deal with three different institutions and procedures as was previously the case. So far, registration is possible at the central registry of the commercial court, but not yet at the regional units of the tax administration. Additional support to the business environment was provided in the form of amendments to the Law on Administrative Fees adopted in March 2011, which reduced or simply abolished payment for a series of administrative and customs documents. The number of bankruptcy cases in 2010 fell to 2,196, compared to 6,150 a year earlier. A new Bankruptcy Law came into force in January 2011. The new law significantly shortens deadlines and enables submitting a legally enforceable restructuring plan together with the bankruptcy petition, against which creditors' claims are to be settled. Another novelty is the possibility for the debtor's company to be sold as a single legal entity, which increases its chances of survival. *Overall*, market entry and exit mechanisms were further improved.

#### *Legal system*

For the acquisition of real estate the Property Relations Law and the entry into force of the Stabilisation and Association Agreement provide the same treatment to both EU citizens and nationals. The Law on State Surveying and Immovable Property Cadastre was adopted by the parliament in June 2011. The main improvement concerns the shortening of deadlines for registration of immovable property to eight days compared with thirty days before, while authorities are obliged under the new law to make a decision within fifteen days of the submission of the request. Meanwhile, the modernisation of the current cadastre register continues with the addition of a newer digitalised information system. *Overall*, property registration procedures continue to improve.

In July 2011 the parliament adopted the Law on Enforcement and Securing of Claims. The new law shortens delays in procedure and recognises mortgage contracts and notarial deeds as enforceable documents. It also allows enforcement against immovable property, including their public sale within a limit of 50% of its market value. Enforcement against monetary claims is also tightened up. Although the strategic and legislative framework to combat corruption has been strengthened, its implementation remains uneven and corruption continues to be a cause for concern. *Overall*, the new law on Enforcement and Securing of

Claims laid the basis for swifter enforcement of contracts. However, weaknesses in the rule of law and prevalent corruption continue to have an adverse effect on the business environment and remain a major challenge.

### *Financial sector development*

Total bank loans accounted for 71% of GDP in 2010, compared to 80.4% the year before. Loans to the private sector remained constant at 98% of total credit. The ownership structure is largely dominated by foreign capital (83% of total), followed by private domestic shares (15%) and state ownership (2%). The banking sector remains highly concentrated, with four banks accounting for 68% of total assets. Financial intermediation remained subdued until May 2011 when two of the largest banks recovered from a long period of credit inactivity. In the case of Crnogorska Komercijalna Banka (CKB) it had to clearout its balance sheet, while Prva Banka's lending was banned by the Central Bank for a period of two and half years until the bank was recapitalised and improved its liquidity. The Central Bank has remained very active, developing secondary legislation with a view to strengthening the resilience of the system to future shocks. In 2011 it adopted several decisions, namely on open market operations, on conditions for lending to banks to maintain their liquidity, on approving last resort financial aid to banks, on international reserves management, on the establishment of the Investment Committee, on capital adequacy and, on mandatory reserves. *Overall*, financial legislation improved.

The interest rate spreads have been widening, as lending rates have been rising (from 9.63% in 2010 up to 9.72% in June 2011) while deposits rates contracted from 3.26% in 2010 to 3.06% in June 2011, the latter trend reflecting an overall improvement of banks' liquidity. The capital adequacy ratio (CAR) rose from 11% in 2009 to 15.9% in 2010 and 15.3% in June 2011, remaining above the minimum legal threshold of 10%. However, the share of non-performing loans (NPL) raises concerns. It has been increasing, reaching 25.3% of total loans in June 2011. Some banks still recorded losses and weak profitability. In the first half of 2011 the aggregated loss of banks totalled € 9 million, compared to 47 million loss a year earlier. At the end of 2010, the combined return on average assets (ROA) was -2.7% and the return on average equity (ROE) -27.3%. During the first half of 2011 the situation improved relatively, recording ROA of -0.6% and ROE of -6.3% by the end of June. *Overall*, the financial situation of the banking sector and the increasing share of non-performing loans continued to reflect the fallout of the crisis, and remain a cause for concern.

The leasing market remained virtually stagnant during 2010 as the value of their contracts was less than 0.9% of GDP compared with 1.1% a year earlier. Leasing showed signs of recovery in the first half of 2011, expanding by 3.3% year-on-year. The insurance market recorded a new entrant in 2011, raising the number of active companies in the country to 12. However, the sector still remains highly concentrated, with one company accounting for 53% of total premiums. Non-life insurance dominates the market (86.6% of the total in 2010), of which compulsory motor vehicle insurance accounts for 56%. In 2010, the combined turnover of the two stock exchanges experienced a sharp contraction of 86% year-on-year, mostly as a result of the high base level following the partial privatisation of the electric power company a year earlier. In October 2010 the two stock exchanges merged to form the Montenegro Stock Exchange, operating as a single entity from January 2011 onwards. The parliament adopted a law on takeover of joint stock companies in March 2011 to improve the protection of shareholders, while streamlining takeover procedures. In June 2011, the Securities Commission issued the first licence to a domestic brokerage company for margin trading. The stock market turnover further declined in 2011, contracting by 31% year-on-year in August.

*Overall*, non-banking financial institutions continued to play a limited role as a source of private sector financing.

### **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 still to recover from the fallout of the crisis. The persistence of external and internal imbalances and the risks as regards public finances from contingent liabilities present a challenge for the economy. Unemployment remained high. The stabilisation measures taken, coupled with a prudent fiscal stance, have reinforced the overall macroeconomic stability. *Overall*, market mechanisms endured the global turmoil but potential vulnerabilities remain.

#### *Human and physical capital endowment*

The reform of the education and training system remains very important given the mismatch of skills with the labour market and the need to improve competitiveness. Reforms have been focused on vocational education and training (VET) following the adoption of the amendments to the Law on VET in July 2010. Several education programmes have been prepared and updated: one for lower vocational education, 31 for three-year VET, 65 for four-year secondary VET and one for higher VET. Furthermore, social partners (trade unions and employers association) as well as the chamber of commerce and the employment agency have been also more involved. In order to align market needs more closely with academic curricula, three sectoral commissions (construction, agriculture and tourism) were established in 2010, tasked with proposing the development of VET qualifications. *Overall*, education reforms continued.

Almost 70% of the needs for seasonal employment are covered by foreign workers. In June 2011 the parliament amended the Law on Employment and Work of Foreigners, simplifying administrative procedures for contracting foreign labour. Active employment measures carried out during 2010 included programmes for education and professional training, public works programmes, credits for self-employment, as well as other activities such as career guidance, specialisation courses, etc. *Overall*, progress was recorded in the form of an improvement in several aspects of the labour market, but efforts should be sustained in order to increase labour participation rates.

Half of total public investments in physical capital are allocated to the national roads programme, representing some 2% of GDP in both 2009 and 2011. Investments on railways infrastructure (around 1% of GDP per year) are largely concentrated in reconstruction of existing sections, mostly financed from loans from International Financial Institutions. Total public investments in airports, telecommunications and the port of Bar represented less than 0.3% of GDP. As regards telecommunications, broadband connections rose by 4% during 2010, raising the penetration ratio to 35%. The incumbent Crnogorski Telekom enjoys a 98% share of the fixed telephony market, and m.tel 2%. In May 2011, the government adopted the plan for the development of business zones, enabling municipalities to create communally equipped areas for the establishment of entrepreneurial activities. *Overall*, the country needs to invest further in modernisation and the development of human capital and infrastructures in order to support domestic companies in their efforts to expand into foreign markets.

### *Sectoral and enterprise structure*

Two of the main domestic manufacturing industries (aluminium and steel) have launched major restructuring programmes in the past few years. However, although the KAP aluminium factory managed to implement its expensive social programme and return to pre-crisis production growth rates, the ironworks company Zeljezara Niksic succeeded in modernising its working capital but failed to agree on the implementation of the social programme after two years of negotiations with the trade unions. This led to insolvency proceedings in April 2011 and the immediate implementation of a social programme for a majority of its 1,410 employees (by the end of August some 750 of them had already received redundancy payments). The company has presented a restructuration plan to be decided upon by the commercial court in early October. As for network industries, following the unbundling of the operations and infrastructure services in the Port of Bar and the railways, reforms are currently focused on implementing their social programmes ahead of a new attempt at privatisation. In the energy sector, the power grid operator (CGES) increased its share capital in January 2011 with the entry of an Italian investor providing a 22% stake whereas state ownership decreased to 55%. Reforms in the telecommunications industry were focused on technological upgrading. *Overall*, the ongoing restructuring in several key industries established the basis for further investments.

The contraction of employment recorded during 2010 affected mostly the manufacturing, construction and extraction industries as well as agriculture. As a result, the share of employment in industry and construction contracted to 20% in 2010 from 21% of total employment a year earlier and the primary sector to 6.2% from 6.5% in 2009. Meanwhile, the share of employment in services increased further to 74% in 2010 compared to 73% in 2009. The informal sector, fuelled by weaknesses in tax and expenditure policies, as well as in law enforcement, including the fight against corruption, remains large. *Overall*, the sectoral structure of the economy continued to shift towards services. The informal sector presents an important challenge.

Data from the Tax Administration show that there were 27,515 SMEs active in 2010, of which micro-enterprises are the predominant group, representing 53% of the total, followed by entrepreneurs (including those registered as self-employed) with 39%, small enterprises with 6% and medium-sized enterprises with 2%. SMEs account for 73% of total employment in the country, although the average size of these companies is quite small as most of them take on fewer than 10 workers. Their share of total exports remains slightly above 30% of total exports. Given that they find access to credit more difficult, the public Investment Development Fund started in 2010 to support SMEs by means of bank guarantees and credits co-financed with commercial banks. It facilitated 107 loans in 2010 for a total of €9 million, plus an additional €3 million from associated commercial banks. The Fund's activities have been extended in 2011 by a €5 million factoring facility, the establishment of a guarantee fund covering up to 50% of SMEs loans with commercial banks, as well as a budget of €3 million to support agriculture businesses. These subsidised loans for agriculture have a proportional larger impact in a sector that attracted but 0.4% of total commercial loans in 2010 (or €9 million). The weak quality of credit portfolios of the domestic banks and risk aversion has led to persistently high lending interest rates (9.2% on average). The high cost of finance remains a major obstacle to setting up and developing companies. *Overall*, a significant share of entrepreneurial activities remains concentrated in non-tradable services.

### *State influence on competitiveness*

Total State aid granted in 2010 amounted to €72 million, or 2.3% of GDP. Of this, around two thirds were allocated to the aluminium factory KAP. The Niksic steelworks received additional 7%, but the call for insolvency proceeding in 2011 put an end to the subsidies to this company. Other companies, like the tobacco factory, the daily newspaper Pobjeda or the national TV broadcaster, received each less than 2% of this aid. Following the surge in global oil prices, the government also introduced in May 2011 a temporary scheme for the partial refund of excise duties on fuel for agriculture machinery, construction, transport and food processing industries. *Overall*, direct State aid has been declining, although the sizeable amount of state guarantees cumulated in the last years remain a matter of concern.

### *Economic integration with the EU*

Openness of the economy, defined as the total value of exports and imports of goods and services, increased slightly in 2010 to 99% of GDP. The main foreign destination for domestic products remains the EU, which accounted for 56% of total merchandise exports in 2010 (up from 48% in 2009), followed by CEFTA countries with 34% (down from 40% in 2009). Yet, most of Montenegro's imports originated from neighbouring CEFTA countries, with 40% of total trade in, compared with 38% from the EU. Import shares from both regions remained practically unchanged in 2010 compared with the previous year. Investments from the EU-27 represented 50% of total FDI inflows in 2010, compared with 80% a year earlier, largely reflecting the deal by the electric power company with Italian investors in 2009. Real effective exchange rate (REER) estimates based on inflation (CPI) suggest that, following a period of substantial appreciation in 2009, international competitiveness stabilised during 2010. *Overall*, trade openness and integration with the EU remain substantial.

## **4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP**

This section examines Montenegro's ability to assume 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**. Montenegro needs to ensure that its legislation is compatible with Articles 34 to 36 of the Treaty on the Functioning of the EU and the related case law of the European Court of Justice.

In the case of **horizontal measures**, some progress can be reported.

In the area of *standardisation*, some progress has been made as regards adoption of European standards (ENs). By the end of August 2011 the Institute for Standardisation of Montenegro (ISME) had adopted 6,280 ENs as Montenegrin standards. A National Standardisation Strategy has been drafted but not adopted. The capacity of the ISME is gradually improving, but it is still hampered by limited resources. Its annual budget totals € 0.5 million and its human resources remain limited. Montenegro has not yet sealed its membership of the European Telecommunications Standards Institute (ETSI). As an EU candidate country, it still

remains an affiliated member of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC).

The ISME has established two technical committees on automotive fuels in May and Eurocodes in construction in July. More efforts will be required in order to convert the working groups on aluminium, food safety, concrete, energy efficiency, occupational health and safety and human resources management into viable technical committees. The first step to connect ISME IT system with CEN/CENELEC system was completed, allowing ISME to report in an automated and integrated way on the adoption of the standards. As a result, data management and data quality at the ISME have improved significantly, with an error rate of less than 0,5% detected when importing new data fields from the CEN. However, the administrative capacity of the ISME needs to be further strengthened with a view to ensuring the institute's self-funding and sustainability and reinforcing its role in meeting the objectives of the national strategy.

Limited progress can be reported on *conformity assessment*. Further harmonisation of the Law on technical requirements for products and conformity assessment with the general principles of the new approach and the horizontal acquis of 2008 is required. So far, very few conformity assessment bodies (CABs) have shown interest in becoming designated and, in the future, notified CABs.

Good progress can be reported in the field of *accreditation*. The number of accredited bodies has increased to 17. However, only two of them (related to lifts and construction products) are operating in the New Approach fields. The administrative capacity of the Accreditation Body of Montenegro (ATCG) is improving. In November 2010, the ATCG hosted the 26th General Assembly of the European cooperation for Accreditation (EA). It still needs to establish a public body representing the interests of the various stakeholders and to adopt the national strategy for accreditation.

There has been progress on *metrology*. The administrative capacity of the Bureau of Metrology (BoM) has been strengthened. In 2010, the BoM moved to new premises, which were refurbished to meet international requirements for metrology laboratories. New equipment has enhanced the testing capacity of the laboratories for mass, length, temperature, pressure, volume, electrical quantities, time and frequency and for controls on pre-packed products. However, constant re-calibration needs to be ensured and the required resources to be secured by the government. The broken metrological traceability chain was re-established in the fields of mass, length and pressure, temperature and electrical quantities. The BoM has launched pilot on-the-ground inspections (e.g. on taximeters and weighing instruments). However, human resources remain very limited. The April 2010 organisation chart for the BoM envisages 67 posts, but only staff of 25 is currently employed. Additional resources will be required to install an integrated IT system to cover all the activities of the BoM. The Bureau also needs to step up its efforts to obtain national accreditation for its laboratories. The BoM became a member of the European Association of National Metrology Institutes (EURAMET) in June.

Some progress can be reported on *market surveillance*. A Coordination Body for Market Surveillance composed of representatives of several inspectorates was set up at the end of 2010 and a process of setting up a unified market inspection has been launched. The Law on general product safety and the Law on technical requirements for products and conformity assessment will need to be revised in view of full alignment with Regulation (EC) 765/2008.

In March 2011, the national system for exchanges of information on dangerous products (national RAPEX) was tested on the first notification of a dangerous product. The IT application for the Market Inspectorate is now operational but will need to be upgraded for use by the whole market surveillance system. A new proactive approach including guidelines for market surveillance was developed and tested by pilot inspections of selected products in the first half of 2011.

No progress can be reported in the '**Old Approach**' product legislation.

More efforts will be required to transpose and implement the eleven '**New and Global Approach**' directives, which are currently in the pipeline, i.e. transposition of the *acquis* on construction products, machinery, low-voltage equipment, electromagnetic compatibility, radio equipment and telecommunications terminal equipment, recreational craft, lifts, common provisions for both measuring instruments and methods of metrological control, non-automatic weighing instruments, pressure equipment and noise emissions from outdoor equipment. Transposition of the 'New and Global Approach' product legislation is substantially delayed by the lack of clear ownership and the wide division of responsibilities across different ministries. Coordination mechanisms both at inter-institutional level and within the Ministry of Economic Affairs need to be strengthened.

Regarding **procedural measures**, no progress was made.

### *Conclusion*

Montenegro has made some progress in the field of free movement of goods and preparations in this area are moderately advanced. Montenegro needs to strengthen its institutional and administrative capacity, enhance cooperation between the relevant State institutions and align the horizontal legal framework with the EU legislation. Considerable additional efforts are also needed to start transposing the product-specific *acquis* into Montenegrin legislation.

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

There has been some progress in the area of **access to the labour market**. A Law amending the Law on employment and work of foreigners, aiming at simplifying existing procedures and reducing requirements for issuing work permits, was adopted in June 2011. However, to comply with EU law on free movement of workers, EU nationals may not be subject to any work permit requirement as from accession.

There has been some progress regarding preparations for future participation in the **EURES** (European Employment Services) network, particularly in planning the establishment within the Employment services of new administrative structures dedicated to EURES.

There has been little progress in the field of **coordination of social security systems**. Montenegro has ratified cooperation agreements with Austria, Belgium, the former Yugoslav Republic of Macedonia, Switzerland and signed such an agreement with Slovenia. Negotiations are under way with the Slovak Republic, Bulgaria, Greece, France, Bosnia and Herzegovina, Croatia, Ukraine and Turkey. These new bilateral agreements are based on the same principles as the EU regulations on coordination of social security. No further progress was made towards strengthening administrative capacity.

There were no developments as regards the **European health insurance card**.

## Conclusion

Little progress has been made in the field of freedom of movement for workers. Montenegro continued to conclude and implement new bilateral agreements, notably with Member States. However, institutional capacity remains limited. In the area of freedom of movement for workers, alignment with the *acquis* is still at an early stage.

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

Progress can be reported on the **right of establishment**. The Montenegrin legislation and the procedures for entry in the commercial register remain non-discriminatory against foreign, including EU, operators and the country started to address its objectives. Regarding the issuing of construction permits, there has been some progress on preparing legislative reforms. Amendments to six laws on waters, agricultural land, protection and rescue, geological researches, electronic communication and spatial planning and construction to simplify the procedure for issuing construction permits were adopted by the parliament in July. The one-stop shop for business registration within the Central Registry of the Commercial Court (CRCE) has been operational since May, while in the future the one-stop shop will be integral part of the Tax Administration. Amendments to the laws on tax administration, accounting and auditing and business organisation were adopted by the parliament in June. When implemented, the number of procedures will be reduced from seven to three. The CRCE will continue functioning within the Tax Administration.

As regards **freedom to provide cross-border services**, little progress has been reported on transposition of the Services Directive. Apart from harmonising basic legislation, implementation of the Services Directive will require designating a central coordination body or unit which will liaise with all ministries and other bodies involved.

In the case of **postal services**, little progress can be reported. Montenegro's primary legislation follows the principles and objectives laid down in the *acquis* and further efforts have been made in the form of preparation of a new Law on postal services. With effect from January 2011, the government moved responsibility for electronic communications and postal services from the Ministry of Transport and Maritime Affairs to the Ministry for the Information Society. Certain responsibilities are also being exercised by the Ministry of Finance, especially for setting the tariffs for reserved postal services. This practice raises substantive concerns about ensuring the independence of the national regulatory authority (NRA) and will have to be further addressed. The national regulatory authority for postal services (NRA) is the Agency for Electronic Communications and Postal Services. The tender commission to choose a contractor for restructuring the universal postal operator has been established.

There have been no developments regarding the universal service obligation. As regards administrative capacity, a head inspector for electronic communications and postal services was appointed in October 2010. However, the number of staff dealing with postal services in the ministry and the NRA has not increased.

There has been good progress in the field of **mutual recognition of professional qualifications**. The Law on recognition of foreign qualifications for regulated professions was adopted by parliament in March 2011. Under this Law, evidence of formal education of nationals of EU Member States is recognised as if it had been acquired in Montenegro. Several by-laws will have to be adopted to implement the law. The Law on the national

qualifications framework entered into force in January 2011 and is now being implemented. The rulebook on recognition of foreign certificates entered into force in February 2011. However, further adjustments to the legal framework are needed. This should include eliminating all nationality, residence and inappropriate language requirements plus reciprocity clauses and introducing a legal distinction between the professions of doctor, dentist and pharmacist, as regards both training for and access to these professions. Further adjustments will also need to be made to the education and training conditions for the professions benefiting from automatic recognition of professional qualifications on the basis of harmonised minimum training requirements.

### *Conclusion*

Overall, little progress has been reported on the right of establishment and freedom to provide services. On the right of establishment progress has been achieved and legislative reforms have advanced in the case of issuing construction permits. Little progress was reported on the right to provide cross-border services. Considerable efforts need to be made on alignment of legislation on the Services Directive and also on administrative capacity and inter-institutional cooperation. Montenegro has made little progress towards aligning its national postal legislation with the *acquis* and the full independence of the NRA and integrity of its regulatory functions still need to be ensured. Further adjustments to the legal framework in the field of mutual recognition of professional qualifications are needed.

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

Regarding **capital movements and payments**, foreign direct investment (FDI) continued to be a key factor in economic development in Montenegro. According to Central Bank data, FDI in Montenegro totalled approximately € 643 million in 2010. Of this, 40% was invested in companies and banks and 29% in real estate, while 25,5% covered inter-company debt and 5,5% other investments. 50,1% of these inflows originated from EU countries, compared with 64% over the period 2000-2009.

No legislative developments can be reported on free movement of capital and on payment systems. Moreover, the government's privatisation agenda was not entirely met. There was a decline in the real estate sector, notwithstanding the fact that EU citizens are treated as nationals when it comes to acquisition of immovable property.

As regards **payment systems**, the Central Bank of Montenegro adopted the "Decision on mandatory elements of payer transfer orders" in March 2011. According to the decision, each transfer of funds must contain all the information necessary to comply with the relevant EU Regulation.

With regard to the **fight against money laundering** progress can be reported. In September 2010 the government adopted the Strategy for Preventing and Combating Terrorism, Money Laundering and Terrorist Financing for the period 2010–2014 together with the Action Plan for implementing the Strategy for the period 2010–2012. A National Commission for implementing the Strategy was established, made up of representatives from all the relevant institutions. The government submitted amendments to the Law on prevention of money laundering and terrorism financing to parliament in January 2011. These are intended to bring it closer to the *acquis*. New definitions and obligations were introduced, plus new provisions for including complete information on the payer in electronic transfers of funds (*see above*

*under 'payment systems')*, which will tighten up the preventive system. More efforts are needed for the adoption of the law.

The Insurance Supervision Agency adopted guidelines on risk analysis on money laundering and procedures for indentifying suspicious transactions. Reporting of suspicious transactions by the banking sector increased. However, banks are still the only entities reporting. There have still been no convictions for terrorist financing and very few for money laundering. Due to lack of funds, professional training and upgrading of the IT systems remain incomplete

The rulebook on the internal organisation of the Administration for Prevention of Money Laundering was adopted by the government in February 2011 with the aim of building up its capacity. This administration serves as the national Financial Intelligence Unit (FIU) and currently employs 28 staff (out of 38 posts assigned), compared with 26 last year, due to limited State funds. However, high staff turnover is hampering effective functioning of the FIU. In October 2010 it signed agreements on exchanges of financial intelligence data with Moldova, San Marino and Israel and updated similar agreements with the Russian Federation, Slovenia and Aruba. These bilateral agreements strengthened cooperation with other countries in this field.

In March 2011 the Insurance Supervision Agency issued guidelines on risk analysis on money laundering and procedures for identifying suspicious transactions.

Cooperation between the Central Bank of Montenegro, the Securities and Exchange Commission, the Insurance Supervision Agency and the Ministry of Finance was tightened by establishing the Council for Financial Stability in September 2010. In December 2010 the Council decided to collect and exchange data and information of significance for the stability of the financial system (*see also Chapter 9 – Financial services*).

### *Conclusion*

While capital movements have been essentially liberalised, full alignment of Montenegro's legislation with the *acquis* and strengthening of its administrative and supervision capacity are still pending. In the case of combating money laundering and financing of terrorism, some progress was made, mainly in the form of the adoption of a strategy and guidelines. Closer cooperation between the financial supervisory authorities and enforcement agencies has also been achieved. However, there are gaps and risks in the system for reporting suspicious transactions and the activities of supervisory authorities remain unfocused. Streamlining of the system for reporting suspicious transactions, backed up by a proactive approach by the FIU, are required for successful action in this field.

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

The **general principles** of public procurement in the internal market have been partly transposed in the Montenegrin legislation. Now efforts will have to focus on implementation and enforcement.

Good progress can be reported in the area of public procurement, including the **award of public contracts**. The new Law on public procurement was adopted by the parliament in July. While the new law brought progress, full harmonisation with *acquis* has not been achieved yet. The related implementing legislation still needs to be finalised. Additional resources will be required to carry out the planned intensive training campaign and to bring the newly established helpdesk at the Public Procurement Directorate fully into operation to

support enforcement of the law. Establishment of the new inspection service on public procurement will require appropriate financial resources. The 2009 Law on concessions is neither compatible with the relevant EU directive, nor with key provisions of the remedies directive.

Administrative capacity for public procurement is gradually improving. In 2010, over 780 public procurement officers and other staff directly involved in public procurement were trained. The two key institutions – the Public Procurement Directorate (PPD) and the Commission for the Control of Public Procurement Procedures (PPC) – are showing growing self-confidence, but the limited human and financial resources assigned are constraining law enforcement, especially as far as the PPC is concerned. The independence of the concessions review body, the Concessions Commission, needs to be ensured. Its powers are defined in very general terms and its institutional capacity needs to be improved.

Since the PPC was established it has adopted 1,053 decisions, of which 330 were issued in 2010 and 140 in the first four months of 2011. In 2010, the Administrative Court cancelled the vast majority of the PPC decisions (60 out of 76) challenged in court, which is a cause for particular concern. Half of the Administrative Court's negative rulings were for formal procedural issues and not related to the quality of the procurement procedures.

Monitoring of signed contracts has to be enhanced. Streamlining and reducing the large number of contracting authorities and training them would allow more effective monitoring of the public procurement contracts.

As regards the **remedies system**, the Public Procurement Law meets the main requirements of the Remedies Directive. However, the legislation has to be more detailed and fully aligned with the Directive.

Improvements have been made to transparency and the fight against corruption and maladministration in the tendering process. The Annual Report on Public Procurement in Montenegro for 2010 adopted by the government in June shows that in 2010 a total of 1,687 public tender procedures were launched, worth € 467,369,416, and only 185 contracts were signed under a negotiated procedure without prior publication (10%), which indicates a small improvement in transparency. The increasing number of bidders per tender and of complaints may also be interpreted as indicators of greater transparency and awareness of bidders' rights. However, more efforts are required to launch the newly developed IT system for publication of procurement notices, which structures the information on the various tenders more systematically, so that the various stages of procurement procedures can be followed. The number of reports on public procurement submitted to the PPD by the contracting authorities has increased, but keeping track of all direct contracts signed without a tender procedure remains an issue.

In 2010, the PPC signed a cooperation agreement with the State Audit Institution (SAI) which envisages joint activities against corruption and other forms of illegal behaviour during the public tender process. The SAI regularly audits public procurement procedures and makes structural recommendations, which were discussed in parliament and at numerous round-table meetings in 2010. However, more efforts will be required to put the SAI's recommendations into action. The main concerns remain poor contract preparation and changes in contract conditions after the contract has been signed. The latter is not in line with the *acquis* and is allowed only in specific circumstances and without changing the essential terms of the contract.

## *Conclusion*

Good progress can be reported in the area of public procurement, but further steps still need to be taken towards alignment with the *acquis* and adoption of the relevant implementing legislation. Administrative capacity has been strengthened and the transparency of the procedures has improved somewhat. Conditions to prevent and fight corruption in public procurement are being put in place. Yet, the overall institutional set-up for public procurement, with a high number of contracting authorities, raises concerns about the capacity fully to implement the legislation on procuring and tendering and to ensure proper monitoring of contracts.

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

As regards **company law**, Montenegrin legislation is largely consistent with the EU *acquis*, but some discrepancies remain to be addressed. In July, 2011 the parliament adopted draft amendments to the Business Organisation Law, which aims to harmonise requirements for publishing data on business organisations and the grounds for cancelling formation of such organisations. In March 2011 parliament adopted the Law on takeovers of joint stock companies, which is almost fully aligned with the Takeover Bids Directive.

As regards electronic signatures, the Root Certificate Authority at national level was established in December 2010. Nevertheless, e-signature is not operational yet.

As regards **corporate accounting and auditing**, draft amendments to the Law on accounting and auditing have been adopted by the parliament in June. An independent public oversight body for auditors and a quality control system need to be clearly planned and established. Progress has been achieved in relation to auditing, since the law specifies which companies require a mandatory audit, the competent authority to carry out an audit, and the auditors' licences. The Central Registry of the Commercial Court does not have enough administrative capacity to report in timely manner on the percentage of limited liability companies that have submitted their financial statements. Nevertheless, according to the Tax Administration out of 24,007 registered limited liability companies, 14,787 (61.59%) submitted their financial statements in 2010. The amendments to the Law on accounting and auditing envisage that the financial statements of limited liability companies will have to be submitted to the Tax Administration only.

## *Conclusion*

Good progress can be reported in the field of company law. In most fields Montenegro's company law is aligned with the EU *acquis*. Amendments to the law on accounting and auditing are in the right direction. Yet, an independent public oversight body for auditors and a related quality control system, along with a system of investigations and penalties need to be established.

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

In the area of **copyright and neighbouring rights**, a revised Law on copyright and related rights was adopted in July.

In the area of **industrial property rights**, the Trademark Law, the Law on protection of topographies of semi-conductors and the Law on the legal protection of industrial designs were adopted in December 2010. While the adoption of these texts helped to align

Montenegrin legislation more closely with the *acquis*, serious discrepancies remain. The Trademark Law does not include a provision concerning the validity of the filing date. The Patent Law does not provide for an implementing regulation conferring legal powers to regulate certain matters related to procedures envisaged in the Law properly. Montenegro should urgently amend the Trademark Law and the Patent Law and then adopt relevant implementing legislation. There are minor deficiencies and discrepancies of the Industrial Design Law with the *acquis*.

Early in 2011 the Montenegrin Intellectual Property Office (MIPO) moved to secure premises. Currently a database and register system are in use, providing a high level of document security. MIPO is implementing the Industrial Property Automation System, with the cooperation of the World Intellectual Property Organisation (WIPO) and the European Patent Office (EPO). However, it has not completely fulfilled its legal obligations with regard to technical infrastructure for processing intellectual property rights. There have been no improvements on a configured network, workflow management tools and working procedures. Limited expertise in intellectual property remains a problem.

Regarding **enforcement** of intellectual property rights, Montenegro started preparing a National Strategy on Intellectual Property. The Government adopted in June the Decree on customs authorities' treatment of goods reasonably suspected of infringing intellectual property rights. In 2010 a limited number of specialised training courses took place to build the capacity of judges from the basic and commercial courts and to train market inspectors and customs officers. Customs control capacity has also been built up. Awareness-raising sessions on copyright issues were organised by public and professional associations, chambers of commerce and academic institutions. The upgraded version of the intellectual property database (INES +) was installed at the Montenegrin Customs Administration and Market Inspection Authority in October 2010.

The Commercial Court received 25 cases in the area of trademarks and the protection of copyrights in 2011. All cases are processed. In 10 cases, the procedure has been completed, while in eight cases the decision was the first instance decision (in which action is being taken on appeal). In the remaining seven cases the procedure is in progress.

However, the continuing lack of human and financial resources and expertise are preventing the agencies from being more effective. Efforts on training and awareness-raising need to be strengthened, both for the public and for officials. Additional significant efforts are needed to increase efficiency and coordination between the relevant agencies.

### *Conclusion*

Some progress can be reported in intellectual property law. The legislative framework on intellectual property is partially aligned with the *acquis*. The Trademark Law and the Patent Law need to be amended, and then their implementing legislation should be urgently adopted.

The MIPO premises have been secured and human resources and capacity-building have improved. Awareness-raising and capacity-building efforts have also taken place within enforcement agencies. However, additional strengthening of administrative capacity is vital for further progress in this area. Montenegro will have to make further efforts to align with the EU *acquis* in this area and to implement it effectively in the medium term.

#### 4.8. Chapter 8: Competition policy

Regarding **anti-trust and mergers**, progress has been made in the legislative field. The current legal and institutional framework complies with EU competition rules in most respects; however some adjustments are still needed. The draft Law on competition protection, which establishes the powers of the Competition Protection Administration (CPA) as an independent agency, will amend the previous definition of a dominant position and introduce specific procedural provisions in line with the EU *acquis*. More efforts are needed to ensure the adoption of the law and the relevant by-laws.

The amendments to the Misdemeanours Law and the amendments to the Law prescribing financial fines for misdemeanours were adopted by the parliament in July. They empower the Misdemeanours Court to impose fines between 1 and 10% of turnover on companies infringing the competition rules. The Misdemeanours Law also provides for fines of up to € 4,000 for individuals found guilty of an offence against the competition rules.

As regards the administrative capacity of the CPA, little progress has been made. This body currently employs 12 staff, of whom only five are case-handlers. This number is insufficient in view of the tasks assigned to the CPA by law. Resources remain a critical issue. However, there is an improvement in the law enforcement record. During the reporting period 13 mergers were approved. No mergers were prohibited and one was authorised, subject to conditions. Two applications for individual exemption from prohibition were approved with certain restrictions. The CPA adopted three decisions on abuse of a dominant position, one of them launched *ex-officio* and concluded in July. In two other *ex-officio* cases the investigation is still ongoing. Further investment in the administrative, investigative and managerial capacity of the Competition Protection Administration is required.

In the field of **State aid** some progress can be reported. The SAC and the State Aid Monitoring Unit (SAMU) within the Ministry of Finance adopted 19 decisions during the reporting period. In 15 of these cases the SAC found the State aid to be compliant, in one non-compliant and in three cases the SAC decided that the notified aid did not constitute State aid. The SAC initiated its first *ex-officio* case, which was completed by banning the grant given by the Ministry of Culture until notification of the existing aid.

The limited number of employees is insufficient for the SAMU to carry out its tasks and hinders the creation of a credible enforcement record of adequately reasoned decisions. The actual operational independence of the SAC and the SAMU needs to be further guaranteed. A State aid inventory has been compiled and is updated regularly. The programme for aligning the existing State aid rules is being implemented.

The process of alignment of the legal framework on State aid control to EU rules was initiated but it has not been completed.

The amount of State aid provided to the *KAP* aluminium company and to the steel company *Željezara Nikšić* and its compatibility with Montenegro's obligations under the Stabilisation and Association Agreement remain unclear. Montenegro has provided only limited evidence on the considerations taken into account for establishing the risk premium charged for the State guarantee issued to back up the loans to these companies. Additional data are needed to calculate the exact amount of aid given in the form of State guarantees for the relevant loans. *Željezara Nikšić* was declared bankrupt in April 2011. Its owner status remains unclear, which

further delays decisions about the company's future. The reconstruction plan for the Nikšić bauxite mines should secure the long-term viability of the company.

No progress has been made in the field of **liberalisation** of regulated sectors. Before advancing in this area, it will be necessary to further analyse and monitor undertakings enjoying special or exclusive rights. In sensitive sectors (i.e. electronic communications, energy, transport, financial services, etc) regulated by sector specific legislation, legal amendments may still be needed to decrease the market entry barriers in order to enhance competition.

### *Conclusion*

There has been some progress in competition policy. Yet, challenges remain on the administrative capacity of the CPA and the State aid bodies. Furthermore, the alignment of the legal framework on State aid control to EU rules has not been completed. The full respect of the State aid commitments under the Stabilisation and Association Agreement remains a cause for concern. The operational independence of the State aid authority needs to be further guaranteed. As regards metal industry, authorities need to ensure full transparency on the amount of State aid provided to the aluminium and steel companies. Decisions about the ownership of the steel company which was declared bankrupt need to be taken without delay.

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

There has been good progress in the area of **banks and financial conglomerates**. Important Basel II requirements, especially regarding the core capital that banks need to keep aside to respond to potential financial and operational risks, have been introduced. New regulations aimed at complying with the Capital Requirements Directive with respect to own funds, credit risk mitigation, large exposure, counterparty credit risk and home/host issues were adopted in May 2011. However, they have yet to enter into force.

Financial stability arrangements compliant with the EU *acquis* and EU best practice were made. A Financial Stability Council was established in September 2010 as a consultative body on financial stability, improving the framework for cooperation between the three regulatory institutions: the Central Bank, the Insurance Supervision Agency and the Securities and Exchange Commission. Internal crisis management plans were adopted by all financial supervisory institutions. Progress has been made regarding the Central Bank's supervisory role, in the form of improvements in its internal organisation and capacity and in exchanges of information with other supervisory authorities.

There has been some progress in the deposit guarantee scheme. A new Deposit Protection Law came into force in August 2010, but is not yet fully aligned with the EU *acquis*. Deposit guarantees are set at € 20,000, which will gradually increase to € 50,000 by 2013. Preparations for alignment with the financial collateral arrangements are well advanced.

There has been some progress with the administrative capacity of the Central Bank to fulfil its supervisory role. All staff of the Central Bank's banking supervision department have received extensive training on how to implement the Basel II requirements.

There have been no significant developments as regards **insurance and pensions**, where preparatory work has been continuing on amendments to the Insurance Law and the Law on compulsory insurance in transport, in order to align them with the EU *acquis*. Alignment with the *acquis* on occupational pension funds remains to be addressed.

There has been some progress with the administrative capacity of the Insurance Supervision Agency. The relevant staff received extensive training to prepare them for applying the Solvency II requirements. However, the human resources of the Agency have not been increased and several posts remain to be filled.

As regards **financial markets infrastructure**, the new Bankruptcy Law adopted in January is aligned with, and partly transposes into Montenegrin legislation, the relevant directives and regulations on settlement finality in payment and securities settlement systems. In the cases of Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims and Directive 2009/44/EC amending the Settlement Finality Directive and the Financial Collateral Arrangements Directive there is no progress and the relevant legislation is still under discussion.

There has been little progress in the areas of **securities markets and investment services**.

Montenegro will need to implement the 2010 Prospectus Directive. There is still no legislation in place on investor compensation schemes and credit-rating agencies. The EU *acquis* on undertakings for collective investment in transferable securities has not been transposed yet. However, preparations are well advanced in order the legislation to be largely aligned with the *acquis*.

### *Conclusion*

There has been some, but uneven, progress in the field of financial services. Elements of Basel II requirements have been introduced and cooperation between the three regulatory institutions has been tightened. However, legislative alignment in the areas of insurance and occupational pension funds, financial infrastructure, securities markets and investment services remains to be achieved. Despite some improvements in staff training, the administrative capacity of the Central Bank and Insurance Supervision Agency require further strengthening.

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

Progress can be reported in the field of **electronic communications and information technologies**. In December 2010, the telecommunications portfolio was transferred from the Ministry of Transport and Maritime Affairs to the Ministry of the Information Society, which became the Ministry of the Information Society and Telecommunications. The regulator, the Agency for Electronic Communications and Postal Services (EKIP), has built up its administrative capacity and been allocated sufficient resources to perform its tasks. EKIP developed its activities in the form of adoption of implementing legislation, preparatory work for market analyses and decisions on significant market power (SMP). It has significantly stepped up its work on consumer protection issues, forcing operators to apply the letter of the law strictly and to publish their tariffs and general conditions. A company has been selected to be the universal service provider for a five-year period and another to provide universal telephone directory and inquiry services. The number of appeals against EKIP decisions increased. A majority of decisions were confirmed in appeal. Yet, the capacity of the Ministry of the Information Society and Telecommunications to act as a second instance is fairly limited. The appointment procedure improved with the adoption in July 2011 of the amendments to the Law on electronic communications, enabling the Parliament to take over from the government the responsibility to identify, propose and appoint members of the Council, including the Chairman. However, the appellative and supervisory powers of the

Ministry of the Information Society and Telecommunications over EKIP (which were transferred to this Ministry from the Ministry of Transport and Maritime Affairs) still endanger the regulator's independence. Implementation of the Law on electronic communications through the adoption of secondary legislation and introduction of competitive safeguards is still at an early stage. This particularly affects the fixed telephony market, which is strongly dominated by the incumbent operator. Competition has emerged on the mobile telephony market with three operators having similar market shares (as well as having same spectrum usage rights in all three bands). Several spectrum licenses for fixed wireless access have been awarded. Overall, while the mobile broadband penetration is high (with penetration level standing at around 23% of the population), the fixed broadband market (at around 8%) is underdeveloped by EU standards.

As regards **information society services**, some progress can be reported, notably in e-government and e-registry. The level of alignment with the EU Directive on conditional access services is now quite high. In April 2011, Montenegro signed a Memorandum of Understanding for its participation in the European Commission's Information and Communication Technologies Policy Support Programme (ICT-PSP). No progress has been made on further aligning the Law on electronic signatures and e-commerce with the *acquis*.

Good progress has been made in the area of **audiovisual policy**. The parliament adopted in December 2010 a decision appointing members to the Council of the Electronic Media Agency. Three members have been appointed for a period of five years and two for four years. The Council appointed in February 2011 the Director of the Electronic Media Agency. It also adopted key documents such as the statutes and Code of Conduct of the Agency and the standing orders of the Council. Implementing legislation was adopted as well, providing for the financial independence of the audiovisual regulator, improvement of its monitoring capacity and proper implementation of the Law on electronic media. Yet, implementation of this legislation is still at an early stage. A new Law on digital broadcasting, which sets a deadline for the digital switchover (1 January 2013), was adopted in July 2011.

Two rulebooks providing for the better protection of minors have been adopted.

### *Conclusion*

There has been some progress in the field of electronic communications and information society services in the form of legislative alignment. However, efforts remain to be made to implement the legislation fully and to introduce competitive safeguards ensuring level playing field for all operators. Administrative capacity of the Agency for Electronic communications and Postal Services has been strengthened. Yet, concerns about its independence remain. The administrative capacity of the new Ministry of the Information Society and Telecommunications remains limited, especially in the telecommunications sector. Good progress has been made in the area of audiovisual policy, in particular on aligning with the *acquis*. The Electronic Media Agency has been strengthened, but its capacity remains inadequate to monitor the market effectively. Overall, preparations in the area of the information society and media are moderately advanced.

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

Little progress has been made on **horizontal issues**, in particular as regards establishment of the structures necessary for management of the common agricultural policy, such as a paying agency and an integrated administrative and control system.

In 2011, funding for the agricultural budget remains low, similar to previous years at around € 20 million. It covers a number of areas, including market support measures, rural development and support for general services. Roughly 22% of the budget is targeted at *direct support* measures linked to production of livestock and crops. Budget allocation to rural development is positive, but access to financing for rural dwellers remains a concern.

The government adopted a rulebook on the internal organisation of the Ministry of Agriculture and Rural Development providing for strengthening the administrative capacity in this field.

The full results of the agricultural census are awaited. They are necessary to provide a good statistical basis for policymaking on agriculture and rural development.

There has been little progress in the field of **rural development**. A first draft of a Instrument for Pre-accession Assistance for Rural Development (IPARD) programme has been prepared. Yet, the National Fund, the future paying agency and the managing authority still have insufficient resources.

Some progress can be reported with regard to **quality policy**. A law was adopted in March 2011 on designation of origin, geographical indications and traditional specialities guaranteed for agricultural and food products. This new law is broadly aligned with the EU *acquis* in this area. Yet, further efforts are needed to implement and enforce this policy.

Some progress has been made concerning **organic farming**. The number of registered organic producers continued to increase. The Organic Agriculture Development Programme for 2009-2012 is being implemented, providing support for investment in organic agriculture with the help of donor funding.

### *Conclusion*

There has been some progress in the field of agriculture and rural development. However, progress on policy development and on using the available financial assistance in the field of rural development has been fairly limited. In this regard, the results of the agricultural census should provide a good basis of precise agricultural statistics to advance with agriculture and rural development policy. Preparations on basic institutions for programming and managing IPARD need to be accelerated. Overall, in the area of agriculture and rural development, alignment with the *acquis* remains at an early stage.

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

Little progress has been made as regards **general food safety**. An evaluation of the food safety legislation in force concluded that a new framework law compliant with the EU legislation needs to be adopted. The laboratory capacity was increased by acquiring new equipment and accrediting certain methods of analysis, including the Veterinary Diagnostic Laboratory.

Some progress has been made towards alignment with the *acquis* in the area of **veterinary policy**. A Law on livestock breeding, aiming at aligning with the EU guidelines, was adopted, as was implementing legislation. Measures were taken to organise official controls prescribed under the 2010 Operational Programme on Animal Health Protection. The Law on *animal identification and registration* was amended, with the result of improving the system and of extending it to sheep and goats. The Veterinary Information System was brought into

operation. A Laboratory Information Management System was installed at the Veterinary Diagnostic Laboratory and the relevant staff trained. Campaigns were conducted to raise public awareness in this area. Yet, certain animal disease contingency plans are still not in place and a comprehensive programme for controlling and monitoring transmissible spongiform encephalopathy (TSE) has yet to be assembled. The new veterinary draft law, which has been open to public debate, is pending.

No progress can be reported concerning the **placing on the market of food, feed** and animal by-products.

There was very limited progress in the implementation of **food safety rules**, mainly consisting in the adoption of a monitoring programme for nitrates in food of plant origin. As regards **specific rules for feed**, legislation on feeding stuffs intended for particular nutritional purposes and on certain products used in animal nutrition is yet to be adopted.

Little progress has been made in the **phytosanitary sector**. A new Law amending and supplementing the Law on plant health protection was adopted with the aim of further alignment with the *acquis*. Implementing legislation on control of the major potato diseases and on the list of authorised substances for plant protection products was adopted. Some progress was made on strengthening laboratory capacity for control of seed and seed material and for pesticide residue analysis through the purchase of new equipment. Training for administration staff continued.

No progress has been made with alignment and implementation of the *acquis* in the area of genetically modified organisms.

### *Conclusion*

There has been some progress in the field of food safety, veterinary and phytosanitary policy. In the area of general food safety, Montenegro has improved its laboratory capacity. Yet, a framework law aligned with the *acquis* has yet to be adopted. Regarding veterinary policy, some progress has been made on legal alignment, capacity-building and implementation but implementing legislation remains to be adopted. Little progress has been made as regards alignment with the phytosanitary *acquis*. Overall, in the area of food safety, veterinary and phytosanitary policy, alignment with the *acquis* remains at an early stage.

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

On the basis of the Law on marine fisheries and aquaculture, new implementing legislation was adopted to secure closer harmonisation of national fishery policy with the *acquis*. However, further efforts remain to be made to align this new legislation fully with the *acquis*. The administrative capacity of the Fisheries Unit of the Ministry of Agriculture and Rural Development has been strengthened.

Progress has been made in the field of **resource and fleet management**. The Fishery Information System was further developed to make it compatible with the relevant EU requirements. The fleet register has been brought into operation, just after the precondition of issuing of licences for commercial fishing for 2011 was met.

Little progress has been made in the areas of **inspection and control**. The capacity of the fishery inspectorate has improved but remains limited. It employs only three full-time inspectors, not enough to perform all the necessary controls. Preparations have started for

meeting the upcoming obligation to record all catches by electronic means and submit this information, also electronically, to the competent authorities. No progress has been made on ensuring systematic processing of logbooks, adequately registering catches and landings and using sales notes. In this respect, no progress was made towards meeting the requirement for systematic cross-checking between the catch composition and logbook records.

There have been no developments as regards **structural action and State aid**. Montenegro provided only very limited support to the fisheries sector, mainly targeting the fishing fleet and aquaculture.

No progress can be reported in **market policy**, including with establishing producers' organisations and collecting market data.

Montenegro has concluded no new **international agreements** on fisheries. There have been no new developments regarding Montenegro's application to join the International Commission for the Conservation of Atlantic Tunas (ICCAT). No difficulties were reported with implementation of existing agreements.

#### *Conclusion*

In the field of fisheries, some progress can be reported on strengthening the legal framework, upgrading administrative capacity, enhancing inspection and control of marine fishery resources and performing more reliable and systematic collection of data on the fishing fleet, catches and landings, the biological state of the fish stocks and socio-economic data. Overall, preparations are on track.

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

Some progress can be reported in the area of **road transport**. Following the amendments to the Law on road transport adopted in December 2010, the market for both national and international goods and passenger transport operations is regulated in compliance with *acquis* principles and the four criteria for access to the occupation of road haulage operator and road passenger transport operator (professional competence, financial standing, good repute and effective establishment). In the case of discriminatory road charges towards EU vehicles, environmental charges (so-called eco-tax) were abolished in July 2011 for heavy goods vehicles and the government adopted in September a decree abolishing these charges for all other vehicles. Yet, this decree remains to be implemented. . As regards the technical *acquis*, implementing legislation was enacted on requirements to be met by road vehicles in terms of dimensions, total weight, axle load, environmental protection, devices and equipment. Mandatory driving times and rest periods and use of tachographs are aligned with the social *acquis*. However, implementation of the rules on digital tachographs in the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR Agreement) has been delayed. Road safety regulations have become stricter, particularly on safety features of road infrastructure and enforcement of speed limits, but, overall, road safety remains a concern.

There has been little progress concerning **rail transport**. The Law adopted in July 2010 on contractual relations in railway transport, including passenger and freight, introduced rules on passenger rights and obligations. The national legislation has not yet been aligned with the third railway package and the most recent EU legislation. Further alignment of the legislation on rail transport safety, in particular with the Directives on train driver licences and interoperability, is on track, but not adopted yet. The absence of infrastructure charges for

passenger trains does not comply with EU standards. The administrative capacity of the Railway Authority, which is not yet fully operational, remains particularly weak. The authority should be given powers to impose penalties or to demand any information from railway companies. The interoperability Directive has yet to be transposed and implemented. The Montenegrin institutions will need technical assistance to complete this task. The border crossing agreement signed between Montenegro and Serbia needs to be further aligned with EU legislation. Four protocols were signed under this agreement, at the levels of policy, customs, veterinary inspections and railway companies. The agreement with Albania is being negotiated with a view to agreeing on a common border station.

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

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

In the area of **air transport**, some progress was made with implementation of the European Common Aviation Area (ECAA) Agreement. However, the issues of the independence of the accident investigation body and of implementation of the safety management system at the airport, as required by the Montreal Convention, still need to be addressed. The air transport law has still to be adopted. As regards the social *acquis*, implementing legislation was adopted on working hours, flying time, daily, weekly and annual rest periods, duration of transport and readiness, number of take-offs and landings, health and national implementing measures to protect aircraft crew members. The Directive on groundhandling was implemented but further efforts are needed to improve its application. No assessment of the capacity of the airport was made. From an air traffic management (ATM) perspective, good progress was made towards fulfilling the ATM obligations in the ECAA Agreement. Significant efforts will be needed to implement the associated legislation and secure a sustainable structure for the National Supervisory Authority.

Some progress was made on **maritime transport**. In 2010, under the Paris Memorandum of Understanding (PMoU), no ships flying the Montenegrin flag were stopped. Steps were also taken to use the services of EU-recognised classification societies. The process of ratification of relevant IMO conventions was also initiated. On 4 May 2011 the PMoU Port State Control Committee agreed that Montenegro can be granted cooperating member status in the framework of the PMoU. Progress was made in the fields of pollution from vessels and handling of waste, with the adoption in April 2011 of a new Law on protection of the sea from pollution by vessels.

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

### *Conclusion*

There has been some progress in transport policy, in particular road and air transport, but further efforts remain to be made to align fully with the transport *acquis* and to implement it effectively in the medium term. Particular attention needs to be paid to alignment with the third railway package and to sound implementation of social and technical rules in road transport as well as of safety and security requirements in the maritime sector. Decisions to abolish discriminatory road charges for EU vehicles have been adopted. Yet, they need to be fully implemented. Preparations in the area of transport policy are moderately advanced.

#### 4.15. Chapter 15: Energy

A document outlining Montenegro's energy policy until 2030 was adopted by the government in March 2011. Its priorities are security of supply, developing a competitive energy market and sustainable energy development, including energy efficiency.

Little progress was made in the area of **security of supply**. The decree on mandatory strategic stocks of oil and petroleum products has not been adopted yet. As regard participation of the country in regional gas infrastructure projects, Montenegro signed in May a Memorandum of Understanding (MoU) and Cooperation with Trans-Adriatic Pipeline AG with the aim of exploring opportunities for developing natural gas markets and increasing diversity of supply in South-East Europe.

There has been little progress in the field of the **internal energy market**. Legislation for implementing the Energy Law adopted in April 2010 remains to be adopted. Montenegro has not yet aligned with the third internal energy market package. The transparency of operations of the transmission company is improving but does not fully meet the requirements of the *acquis* (such as publishing network charges and investment forecasts). The Energy Regulatory Agency fulfilled some of the preconditions for establishing a functioning energy market, by adopting substantial implementing legislation and rules. Yet, electricity prices do not cover costs, which is an obstacle to genuine opening of the market. The distribution company remains integrated in the Montenegrin Electric Enterprise (EPCG), although the energy Law requires its legal unbundling. The government signed in August 2011 a MoU with the Italian company A2A, redefining the terms of EPCG privatisation and recapitalisation. The government will retain majority ownership in EPCG. The MoU also allows for the possibility of a merger of Pljevlja coal mine with EPCG and the construction of Moraca hydro power plants.

No gas infrastructure has been built and no implementing legislation concerning the gas market has been adopted.

There has been some progress in the area of **renewable energy**. Implementing legislation aiming to improve alignment of national legislation with the Renewable Energy and Cogeneration Directives was adopted. However, further efforts should be made towards setting up a regulatory environment that would foster the increased use of renewable energy sources in all sectors, as required by the EU renewable energy *acquis*.

As regards **energy efficiency**, the National Energy Efficiency Action Plan, which covers the period 2010-2012, was adopted by the government in December 2010. Montenegro has no firm plans to implement the new EU Regulation on the labelling of tyres.

Progress has been made regarding **nuclear energy, nuclear safety and radiation protection**, Montenegro has ratified the Joint Convention on the safety of spent fuel management and the safety of radioactive waste management. A national emergency plan for radiation/nuclear accidents was adopted by the Ministry of Interior in March 2011; its compliance with the *acquis* and with international standards remains to be verified. This is also the case for all radiation protection regulations. There is no programme of environmental monitoring of radioactivity in compliance with Articles 35 and 36 of the Euratom Treaty. The licence for the storage facility for radioactive waste has not been issued. Regarding administrative capacity, there is still no specific department assigned to nuclear issues within the Environmental Protection Agency and staffing levels devoted to radiation protection management with the

Agency are insufficient. Furthermore, there is no separate or ring-fenced budget for regulation in this area.

### *Conclusion*

Some progress can be reported in the area of energy. A new strategy on energy policy until 2030 was adopted. Further efforts should be made towards adopting legislation concerning oil stocks and setting up a regulatory environment that would foster the increased use of renewable energy sources in all the sectors, as required by the EU renewable energy *acquis*. Legislation for implementing the Energy Law remains to be adopted. Administrative capacity is still limited in all sectors. Preparations in the area of energy are moderately advanced.

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

Limited progress can be reported as regards legislative alignment with the EU *acquis* in the area of **indirect taxation**, especially as regards *VAT*. A new Decree allowed deferred payment of customs debt (duties and VAT), within 30 days after acceptance of the customs declaration. The Law on *excise duties* was amended in December 2010 to increase the duties on cigarettes and other tobacco products and on beer. Despite this progress, further improvements remain to be made in order fully to align the structure, scope and level of excises with the EU *acquis*.

Limited progress was made in the area of **direct taxation**. In March 2011 the Tax Law was amended in order to have corporate financial reports submitted to the Tax Administration, in line with the one-stop shop principle. Tax relief provisions that could lead to harmful tax competition were not formally assessed and need further elaboration. The 2008 Law on free zones was amended to repeal the exemption from corporate income tax granted to users and operators, but other provisions, among others related to financial services or transparency, remain to be addressed.

As regards **administrative cooperation** and **mutual assistance**, agreements on administrative cooperation have been reached with five tax administrations.

**Operational capacity and computerisation** of the tax administration have been improved by introducing an integrated registration and collection system. By applying the one-stop-shop principle, the service registration of activity for customs, VAT and excises can be concluded at one place. The capacity of the audit and collection departments of the Tax Administration and its management has been strengthened by training on use of the computerised tax collection risk assessment system. However, insufficient human resources in the IT department are preventing full use of the system and jeopardising the overall progress of the Tax Administration in the IT field. No progress has been made regarding the internal control system of the Tax Administration.

### *Conclusion*

Progress has been made in the area of taxation, principally in the form of development of a computerised registration and collection system. However, the capacity of the Tax Administration is limited, amongst other things, by the lack of staff for its IT activities. Further efforts remain to be made to increase the effectiveness of the data systems in the fields of administrative cooperation and internal control. Preparations in the area of taxation are on track.

#### 4.17. Chapter 17: Economic and Monetary policy

As regards **monetary policy**, under the Central Bank Law, the Central Bank of Montenegro has adopted its statutes and passed important decisions on open market operations, on liquidity loans to banks, on last-resort financial assistance, on supplying bank notes and coins to banks, on eligibility and verification of authenticity and return into circulation of euro banknotes and coins, on treatment of suspected instances of euro banknotes and coins and other activities to protect euro against counterfeiting, on establishing the investment committee, on guidelines on allocation of funds for the implementation of monetary policy instruments, on reserve requirements, on the Credit Registry, on Capital Adequacy, and on international reserve management. The Central Bank Law needs to be further adapted to the provisions of EU legislation on withdrawal, replacement and destruction of worn-out banknotes and coins. . The law also has to safeguard institutional and personal independence, especially regarding the case of the Governor of the Central Bank. There was also no progress regarding the privileged market access for the State of Montenegro by the Insurance Act. .

In December 2010 the Financial Stability Council adopted decisions on the collection and exchange of data and information of importance for financial system stability and on the list of persons responsible for delivery of data and information to the Financial Stability Council. The Security Commission and the Insurance Supervisory Authority adopted their Contingency Plans, but those of the Ministry of Finance and the Central Bank are still pending. Therefore, the Financial Stability Council has not passed yet the National Contingency Plan for crisis management at the financial system level.

Overall, more efforts are needed for completing the legal framework with detailed arrangements regarding the liquidity of banks. Montenegro needs also to implement legislation on central bank independence, monetary financing, privileged access to public-sector financial institutions and protection of the euro.

In the area of **economic policy**, Montenegro submitted its 2011 Economic and Fiscal Programme (EFP) to the European Commission, covering the period 2010-2013. The EFP is an integral part of Montenegro's policy coordination and economic planning process. It presents recent macroeconomic developments and the structural reform framework, including possible future macroeconomic scenarios. The EFP broadly meets EU requirements on format and content. However, further analysis is needed to confirm the solidity of the EFP's medium-term projections. Structural reform measures need to be more detailed. This is particularly important in view of the forthcoming submission by Montenegro of its pre-accession economic programme in 2012.

#### *Conclusion*

Overall, progress can be reported in the field of economic and monetary policy. Montenegro completed the legal framework with detailed provisions on reserve requirements, on the credit registry and on the withdrawal, replacement and destruction of worn-out banknotes and coins. Nevertheless, it will have to make substantial efforts to complete its alignment with the *acquis* and implement legislation effectively in the medium term, focusing on issues related to central bank independence, monetary financing and privileged access to public-sector financial institutions. Montenegro's present use of the euro is distinct from euro area membership. The implications for Montenegro's monetary system will have to be defined in detail and addressed in future accession negotiations.

#### 4.18. Chapter 18: Statistics

There has been limited progress on **statistical infrastructure**. The revised Statistical Law has to be adopted to provide a favourable framework for development of a strong statistical system in Montenegro. The coordination of the national statistical system needs to be reinforced by strengthening both the coordinating role and the administrative capacity of the national statistical office (Monstat).

The lack of human resources – notably of specialised statistics experts – and sufficient office space became even more critical in the reporting period.

As regards **classification and registers**, there has been good progress. The Law on the national statistical classification of economic activities, based on the European NACE Rev. 2 classification, was adopted in March 2011. Further improvements have been made to the statistical business register. A regular survey for updating the business register has been established. The national classification of occupations, harmonised with the International Standard Classification of Occupations (ISCO-08), is being implemented. Monstat has developed a metadata prototype and has started preparing metadata documentation for several domains.

There has been good progress in **sector statistics**. In April 2011 Montenegro successfully conducted the population and housing census in line with international standards. Preliminary results were published in May 2011, followed by the first results by municipality in July. The first results of the agricultural census carried out in June 2010 were published in March 2011. Monstat has made progress in the area of agro-monetary statistics, with the introduction of three new pilot surveys covering expenditure and prices.

Progress can be reported in the area of national accounts. Monstat has started experimental calculation of quarterly GDP in constant and current prices. Development of sectoral accounts is progressing. With regard to price statistics, good progress was noted. In February 2011 Monstat launched monthly releases of the harmonised index of consumer prices. Progress has been made on business statistics. The structural business statistics for 2008 were published, and further improvements were made for the 2010 survey. Regarding short-term statistics, improvements have been made to the methods for existing surveys, including the industrial production index. Monstat made progress in harmonising the tourism survey on arrivals and overnight stays with EU standards and has published the preliminary results of the tourism satellite accounts in July. Data transmission to Eurostat needs to improve as Montenegro currently transmits only a limited number of datasets to Eurostat (e.g. external trade statistics and purchasing power prices). Montenegro will have to make considerable and sustainable efforts to align with the *acquis* in the areas of agricultural, business and macroeconomic statistics.

#### *Conclusion*

Good progress can be reported in the area of statistics, but, overall, significant challenges remain before Montenegro reaches a satisfactory level of alignment with the *acquis*. Weaknesses in the areas of agricultural, business and macroeconomic statistics need to be addressed as a matter of urgency. The statistical infrastructure needs to be improved as a matter of urgency, including adequate human and financial resources. Preparations are moderately advanced.

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

There has been little progress in the area of **labour law**. Amendments to the labour law, aiming at addressing part of the adjustment still required in order to align national legislation with the *acquis*, have not been adopted yet. Moreover, implementation and enforcement of existing labour law remains a serious challenge.

There has been limited progress in the area of **health and safety at work**. Education and training has been provided to labour inspectors, social partners and persons engaged in activities related to safety at work. Awareness-raising activities were stepped up by closer cooperation with the European Agency for Safety and Health at Work. However, there has been no progress on adopting legislation implementing the Safety at Work Law and transposing EU Directives into national law. The number of labour inspectors in the area of occupational health and safety is insufficient. Agencies for Health and Occupational Safety and Health sections within the Labour department of the Ministry of Labour and Social Welfare have not been established yet.

There has been some progress in the **social dialogue**. The Law on the Social Council has been amended, establishing the Social Council as a legal entity. This should clear the way for full independence of this body and significantly improve administrative and technical operations. The Law sets out to strengthen the work of the Social Council at municipal level and improve communication and cooperation with the Council at national level. It also introduces registration of municipal councils at the Ministry of Labour and Social Welfare, which should stimulate the partners at local level. However, the Social Council secretariat provided by the law has not been set up yet. Employees and employers started to submit requests to the Agency for peaceful resolution of labour disputes in order to resolve individual or collective cases. The Agency started to produce its track record. New amendments to the General Collective Agreement were adopted in November 2010, introducing inter alia a minimum wage and rules for its determination through collective bargaining. However, the General Collective Agreement expires 31 December 2011. Progress on development of bipartite social dialogue remain slow. The Law on trade union representativeness is being implemented but the procedures to check representativeness (trade union members lists) are not in line with data protection clauses, including those in the EU Charter of Fundamental Rights.

Limited progress has been made in the area of **employment policy**. The labour market has further deteriorated in 2010 and showed only modest improvements in 2011. The activity rate stabilized at 60% for the 15-64. There has been a slight increase of the employment rate in 2011 (at 39.6% in the second half of 2011 compared to 38.9% in the same period of 2010) but with persisting significant gender gap and a continuous increase of unemployment, close to 20% in mid-2011. The high incidence of long-term employment continued (at around 80% of total unemployed in the second half of 2011 according to Monstat) as well as youth unemployment (at 37.3% in the same period.) The low rate of employment, persisting skills mismatch and gaps between the north and other parts of the country remain causes for concern. An evaluation of implementation of the National Action Plan for Employment (NAPE) found that the strategy for employment and human resources development for the period 2007-2011 is delivering on most of the objectives. Montenegro continued to implement a wide range of active labour market measures, e.g. public works, seasonal employment, job subsidies, co-financing of apprentices, training, retraining and credits for self-employment. However, they remain insufficiently targeted at the needs of vulnerable groups. Funding for active measures remained low and even decreased by 25% in 2010, due to budget restrictions. Five career guidance centres for information and vocational orientation have been established

within the public employment service. However, a large share of unemployed are not registered at the PES and remain without active support. An action plan for the suppression of undeclared work (developed with ILO assistance) has been adopted by the Social Council. Implementation has started with a focus on awareness-raising and information for the labour inspectorate and social partners.

There has been limited progress in preparations for the **European Social Fund**. Work on setting up the operating structure for implementing the programme has been launched. However, administrative capacity within the government bodies and municipalities involved is still insufficient (*see also Chapter 22 — Regional policy and coordination of structural instruments*).

Limited progress has been made on **social inclusion**. The economic deceleration has caused an increase in poverty. In 2010, almost 7% of the Montenegrin population were living below the absolute poverty line (set at € 170 per month), as compared with 4,9% in 2008. Poverty is more widespread among the rural population in the north. Progress on development of databases and indicators, as used in the EU to monitor social inclusion and social protection, remains slow. Additional efforts are needed to ensure the social integration of Roma, Ashkali and Egyptians.

As regards people with disabilities, adoption in July 2011 of the Law on prevention of discrimination against people with disabilities and amendments to the Law on vocational rehabilitation and employment of persons with disabilities is a good step forward. However, the extent and substance of the new Law will need further adjustments in order to comply fully with the *acquis*. Strong awareness campaigns addressing the social inclusion of people with disabilities were conducted throughout the country. Yet, state financial support remains low and no progress was made on developing national reliable data.

Some progress can be reported in the field of **social protection**, notably of pensions, where a process was launched progressively to increase the statutory retirement age and equalise it for both genders and to reform the 'bonus-malus' system to remove incentives for early retirement. Amendments to the pension insurance scheme were adopted in January 2011. However, introduction of funded pension schemes based on mandatory savings was postponed and funding for the current pension system is not sustained. Overall, the public finance situation is having a negative effect on the social reforms.

There has been progress in the area of **anti-discrimination**. The Law on the protector of human rights and freedoms (Ombudsman) giving details of the Ombudsman's role in the fight against discrimination was adopted in July 2011. Training activities for the police and civil servants took place. However, implementation of the existing legislation remains weak. The Ombudsman's Office lacks the financial and administrative means necessary to act effectively. Amendments to the Anti-Discrimination Law expected to further align with the *acquis* have not yet been adopted. As regards lesbian, gay, bisexual, and transgendered person's rights, the new government has demonstrated greater openness and a proactive approach illustrated by large awareness campaigns and involvement in planning the 'pride parade'. Yet, cases of discrimination against the LGBT community did not receive appropriate attention from public authorities. Cooperation between the Ministry of Human and Minority Rights and relevant civil society bodies need to be further strengthened

Little progress can be reported on **equal opportunities**. Effective implementation of existing legislation in this area remains a challenge. Awareness-raising campaigns and training for

civil servants were organised. Local action plans for gender equality were prepared in six municipalities and adopted in three of them. Progress on improving the equal pay legislation and introducing parental leave remain slow.

### *Conclusion*

Little progress has been made in the area of social policy and employment. Amendments to the labour law remain to be adopted and further efforts to be made in the area of health and safety at work to align legislation with the *acquis*. The legislative framework for the Social Council and inclusion of persons with disabilities has been strengthened but there has been little progress overall regarding social inclusion. Some steps have been taken to reform pensions. In the area of anti-discrimination, the Law on the Ombudsman has been adopted and some progress was made in awareness-raising. Yet, the measures taken to address discrimination against socially vulnerable groups remain insufficient. Important steps were made regarding the tripartite social dialogue but concern remains as to the trade unions' representativeness. The capacity of the Public Employment Service needs to be strengthened, along with active labour market measures in order to address low activity and employment rates and the mismatch between the skills available and needs. The situation of public finance negatively affects reforms in the social area. Promotion of gender equality, including by means of equal pay, remains weak. Overall, in the areas of social policy and employment, alignment with the *acquis* remains at an early stage.

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

Progress can be reported in the area of **enterprise and industrial policy principles**. A new development strategy for 2011-2015 for small and medium-sized enterprises (SMEs), prepared in close cooperation with business representatives, was adopted by the government in January 2011. The action plan for its implementation for the year 2011 was prepared in March and is monitored by the coordination team established for this purpose. In June, the Government adopted a similar strategy which is focused on promotion of competitiveness at the micro level in the period 2011-2015, previously adopted by the Council for Promotion of Competitiveness. The latter was established in November 2010 aiming at coordinating all relevant activities. Further action, particularly improved coordination of various institutions and better data on the SME sector, is needed to secure the effectiveness of these strategies.

In designing and implementing the SME policy, Montenegro is applying the principles of the Small Business Act and participates in the process of monitoring led by the European Commission and the OECD.

In the area of business registration, further progress has been achieved by implementing the 'Unified registration of enterprises' in tax administration. However, additional efforts are needed in this area. Montenegro is continuing its efforts on promoting entrepreneurial education and strengthening the technological capacity of SMEs, but further work remains to be done.

There has been some progress in the area of **enterprise and industrial instruments**. Montenegro is continuing to participate in the Entrepreneurship and Innovation Programme. The Investment and Development Fund (IDF) started its funding operations, both directly and via intermediaries, and has started assessing possible cooperation with international financial institutions. However, it is too early to assess the effectiveness of its instruments.

Coordination of institutional support to SMEs between the Ministry of Economy, the Directorate for Development of SMEs (SMEDD) and its regional and local centres, the Chamber of Commerce and financial institutions (IDF, micro-credit providers and commercial banks) is developing but needs to be further strengthened

No progress was made with preparation of an industrial strategy. The assessment of the existing **sectoral policies**, necessary for formulating future industrial policy, is also lacking.

#### *Conclusion*

There has been some progress in enterprise and industrial policy. Montenegro is continuing to develop an enterprise policy in line with EU principles, particularly in the area of support for SMEs. However, industrial policy remains to be developed and efforts to formulate a policy in strategically important manufacturing sectors need to be intensified.

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

Limited progress can be reported in the area of trans-European **transport networks**. Montenegro continued to participate in the implementation of the Memorandum of Understanding on development of the South East Europe Core Regional Transport Network and in the activities of the South East Europe Transport Observatory. However, further efforts remain to be made towards joint development of projects of regional interest with neighbouring countries. Upgrading road and rail links in the comprehensive network remains a priority. As regards the preparations for development of the Bar-Boljare motorway project to link the port of Bar to the border with Serbia (SEETO route IV), efforts are being made, with support from the European Investment Bank, to review the project in order to cut the costs and secure its financial viability. Concerning rail network infrastructure, no progress can be reported. As regards the port of Bar, after the procedure for privatisation of the cargo terminal failed in April 2010, a privatisation plan was adopted in March 2011. Before re-launching the procedure, the government intends to increase its share in the company to 66% and to adopt a social programme for voluntary departures of staff. Implementation of this social programme is a crucial factor in attracting interest in privatisation.

There has been progress on in the area of trans-European **energy networks**. A new 400 kV overhead transmission line (OHL) for interconnection with Albania came into operation. As regards the underwater interconnection cable with Italy, agreements between Montenegro and the Italian company Terna were signed in November 2010 and published on the Ministry of Economy's website. Public hearings were organised on the draft detailed spatial plan and the draft strategic environmental impact assessment concerning the 400 kV OHL line linking the coast (Lastva) with the north of the country (Pljevlja). These two documents were adopted by the government in July 2011 after their approval by the Environmental Protection Agency and the publication of the report on the public hearings. A feasibility study for this 400 kV OHL was approved by the Steering Committee of the Western Balkans Investment Framework and will be developed from September 2011 under the EC Infrastructure Project Facility. Montenegro signed in May 2011 a Memorandum of Understanding and Cooperation with Trans-Adriatic Pipeline AG on exploring opportunities in the natural gas market. The national transmission system needs to be updated and work remains to be done on a gasification strategy for the country.

#### *Conclusion*

Little progress has been made in the area of trans-European networks. Regarding TEN-T infrastructure, further work remains to be done on improving road and rail links. Progress regarding the TEN-E network was mainly related to improving electricity interconnection lines. Regarding gas, interconnections with neighbouring countries remain to be developed (within the Energy Community gas ring) and national transmission systems updated. Preparations in the area of trans-European networks are still not very advanced.

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

Some limited developments can be reported as regards the **legislative framework**. A Law on regional development was adopted in April 2011, although not mandatory under EU cohesion policy.

Little progress was made on establishment of the **institutional framework**. The government adopted a road map and action plan with a view to achieving accreditation under components III (regional development) and IV (human resources development). The national IPA coordinator (NIPAC), the competent accrediting officer (CAO), the national authorising officer (NAO), the heads of operating structures and the Strategic coordinator (SG) have been appointed. A decree which defines function and composition of the different operating structures was adopted in June 2011. In compliance with this decree, human resources were allocated to the different operating structures. Yet, administrative capacity, in terms of the necessary staff and training, is still weak. In view of Montenegro's recently achieved candidate country status and the eligibility for IPA components III and IV which it is conferring, preparations are lagging behind and need to be speeded up.

With regard to **administrative capacity**, limited progress was made. A gap assessment has started. Although numerous training courses have been organised, administrative capacity remains weak.

In the area of **programming**, limited progress was made. Montenegro prepared a number of draft documents: a strategic coherence framework and two operational programmes, one on regional development (component III), the other on human resources management (component IV). However, essential elements are missing such as the implementing provisions, allocation of financial resources, conduct of the ex-ante evaluation and the strategic environmental assessment. The quality and maturity of projects need to be improved in order to comply with the IPA component III and IV requirements and rules.

In the areas of **monitoring and evaluation** no progress has been made in developing a roadmap to monitor and evaluate the quality and impact of development programmes.

Capacity building and training has been provided to the **financial management and control** structures with the result of increased knowledge and skills. The new law on the Audit Authority is pending and full independence of the AA still needs to be ensured.

#### *Conclusion*

Little progress has been made in the field of regional policy and coordination of structural instruments. Establishment of structures for implementing IPA components III and IV need to be completed as a matter of urgency. Appropriate administrative capacity needs to be developed, notably in areas such as strategic planning, project development, project management and financial management and control. Recruitment and training policies need to

be adopted as soon as possible. Overall, preparations in the area of regional policy and coordination of structural instruments are at a very early stage.

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

Regarding the *independence* of the **judiciary**, some progress was made. The amendments to the Laws on courts, the Judicial Council and the State prosecution office improved to certain extent the legal framework by reducing the possibilities for disproportionate political influence. Amendments to the Laws on the Judicial Council and the State prosecution office laid down the criteria for first-time appointment of judges and deputy State prosecutors and their subsequent promotion, for the appointment of court presidents and for the permanent tenure of State prosecutors. These amendments also introduced, for the first time, a legal obligation to apply written, anonymous tests for selection of magistrates. Members of the Commission responsible for conducting these tests for the selection of judges were appointed in September 2011. The new criteria for selecting entrants to the judicial system reduce the room for discretion by the Judicial and Prosecutorial Councils and thereby improve transparency in the selection process. In parallel to the adoption of sub-constitutional changes, the Parliament enacted in July the decision in principle to amend the Constitution with the aim to strengthen judicial independence. Yet, with the current Constitution still in place, concerns persist over the appointment of the Supreme Court President and the Supreme State Prosecutor by parliament by simple majority. The appointment of the judges of the Constitutional Court is still not fully compliant with European standards. The limited mandates of the Supreme State Prosecutor and the Heads of Prosecutors Offices remain problematic. The merit-based elements of the career system need to be substantially strengthened and a country-wide single recruitment system remains to be established.

Concerning the *impartiality* of judges, rules on conflict of interest and a code of conduct are in place. The rules for random allocation of cases do not yet guarantee genuinely random case allocation, as de facto limitations, particularly in smaller courts, continue to exist.

As regards the *accountability* of the judiciary, initial steps have been taken to establish a track record on fighting corruption within the judiciary. Amendments to the Law on the Judicial Council provided for establishing a commission for monitoring implementation of the code of ethics for judges. Amendments to the Law on the State prosecution office provided for adoption and monitoring of a code of ethics for prosecutors and list all possible reasons for disciplinary action against prosecutors. The Law on courts now lists all possible reasons for disciplinary action against judges and court presidents. These amendments strengthen the principle of security of tenure by introducing clearly defined legal grounds for disciplinary action against or dismissal of judges and prosecutors. Implementation of these principles is crucial to increase transparency and ensure proper implementation of the code of ethics. Members of the Disciplinary commission were appointed in September 2011. Both judges and prosecutors continue to enjoy functional immunity. This broad protection from prosecution is an issue of concern.

Regarding the *efficiency* of the judiciary, further measures have been taken to reduce the backlog of cases in courts. With *circa* 12,000 unresolved complex cases from previous years in all courts in Montenegro at the end of 2010, the backlog was approximately 7% lower in 2010 than in 2009. Yet, concerns persist about the reliability and quality of judicial statistics. The IT system in place allows case tracking and automatic allocation of cases but not statistical reporting and filing of judicial acts. The Law on notaries introduced a notary system aiming to reduce the burden on courts and administrative bodies. 34 notaries took up duties in

July 2011. The new Law on enforcement and security of claims, enacted by the parliament in July 2011, transferred powers for civil enforcement to the bailiffs. However, enforcement of civil decisions in particular remains weak. Concerns persist over the long duration of court proceedings. The Law on the right to trial within a reasonable time is not yet implemented effectively. The constitutional provision on the right to legal remedy does not fully comply with Article 13 of the ECHR.

The 2011 budget for the judiciary amounts to € 26,5 million, which represents 0,83 % of the GDP. However, with over 80% of the funds allocated for the salaries of magistrates and administrative staff, there were not sufficient budgetary resources to remedy shortfalls in the infrastructure and equipment, which continue to hinder efficiency. No developments can be reported as regards streamlining the court network. Montenegro continues to be one of the countries with the highest number of basic courts, magistrates, prosecutors and administrative staff in Europe. Efforts need to be stepped up to streamline the courts system.

The new Criminal Procedure Code (CPC) fully entered into force on 26 August 2011 and is now applied in all Montenegrin courts. The Laws on misdemeanours and on free legal aid together with the Criminal Code have been aligned with the new CPC. 29 additional deputy State prosecutors have been appointed and a number of prosecutors and judges have received training on CPC rules. However, the capacity of State prosecutors to implement the new legislation and ensure proactive guidance and coordination of police and other law enforcement agencies remains insufficient. Enhanced training on implementation of the new CPC remains essential.

Some progress can be reported in **anti-corruption policy**. Steps have been taken to address outstanding GRECO recommendations in the form of amendments to the Law on conflicts of interest and to the Criminal Code, enacted in June and July 2011 respectively. A new Law on political party financing, adopted in July 2011, improved the legislative framework in this area. Furthermore, the new Law on civil servants and State employees provided legal protection for whistleblowers in the public administration. A new Law on public procurement was enacted in July 2011, with the aim of reducing opportunities for corruption and increasing transparency in this field.

As regards repressive measures, the institutional and administrative capacity of the prosecutors and police to fight corruption has been partially strengthened. A special anti-corruption investigation team has been established, made up of representatives of the police administration, the Office for prevention of money laundering and terrorism financing and the tax and customs administrations and reporting to the Special Prosecutor for organised crime, corruption, terrorism and war crimes. Yet, inter-agency cooperation remains insufficient. Coordination between police and prosecution is hampered by the lack of interconnected databases and restrictive provisions on delegating investigations to law enforcement agents. Intelligence-led policing is still at initial stage and remains to be implemented across the country. There is still no clear division of competences between the different anti-corruption bodies and the overall coordination of the implementation of anti-corruption efforts needs to be greatly improved.

Most of the corruption cases prosecuted are for abuse of official positions and bribery. In December 2010, a High court judge was sentenced in second instance to seven years of imprisonment for passive bribery. Nine persons were sentenced in first instance in June 2011 to imprisonment for abuse of official positions and bribery in a cadastre case. During the reporting period, three cases were initiated against 28 persons for abuse of official position

and bribery, among whom are the former Mayor of Budva, his Deputy and a Member of Parliament. In 2010, the competent organisational units filed criminal charges against 12 police officers for 13 criminal offences involving elements of corruption (11 for abuse of official position and two for passive bribery). Despite a positive trend, the track record of investigations and convictions needs to be further developed. Final court rulings, in particular for high-level corruption cases, remain limited. Financial investigations have to be conducted more systemically, as a common method of investigating serious crime. The number of cases in which seizure or confiscation of assets were ordered remains low. There are still no cases in which the new provisions of the CPC and the Criminal Code on extended confiscation of criminal assets have been used.

In the area of corruption prevention, the Government adopted in July a risk analysis of areas vulnerable to corruption, which identified six areas of particular risk: local self-government, spatial planning, public procurement, privatisation, education and healthcare. Among the recommendations of this analysis are the introduction of more precise mechanisms for implementation and monitoring of anti-corruption initiatives as well as improvement of the reporting methodology used by the Tripartite Commission for corruption and organised crime cases. In July, the Government adopted a revised 2011-012 Action Plan for the implementation of the Strategy for fighting corruption and organised crime, comprising 106 new measures and improved indicators. The Directorate for Anti-corruption Initiatives (DACI) organised a number of relevant awareness-raising campaigns and opinion polls. Cooperation with civil society in the area of anti-corruption has improved significantly. The Judicial Training Centre adopted training programme for judges and prosecutors in the area of anti-corruption and conducted five trainings and seminars in this field, attended by 291 participants.

98% of State officials and 95% of local officials submitted their asset declarations for 2010/2011 within the deadline set by the law. For the first time a public official has been brought to court for failure to submit asset declaration. Yet, the asset declarations of civil servants are still not being checked on substance in order to establish cases of illicit enrichment. In 2010, the Criminal Court asked the Commission for Prevention of Conflicts of Interest to initiate misdemeanour procedures against 615 public officials who had failed to submit complete declarations of interest, which resulted in 382 final decisions and misdemeanour fines totalling € 23,000. Amendments have been introduced in the Conflict of Interest law to strengthen the competences of the Commission for Prevention of Conflict of Interest. Yet, these will enter into force only in March 2012. Concern remains over the capacity of the Commission to perform its supervisory role adequately. Also, there is no uniform template for declarations of interest.

Few sanctions have been applied to the political parties which breached the rules on financing. In 2010, seven political parties received a warning for submitting their reports on expenditure in election campaigns after the deadline set by the law and one party was fined for not submitting a report. Whereas the new law on political party financing brings important improvements, concern remains over the insufficiently dissuasive and undifferentiated sanctioning system, as well as the regime and ceiling of membership fees. Further legislative changes and important administrative strengthening will be needed to ensure a fully effective independent oversight by the State Electoral Commission (SEC), which will become supervisory authority with the entry into force of the law in January 2012.

Montenegro is continuing to improve the legal and institutional framework for protection of **fundamental rights**. However, sound implementation of the existing legislation and strengthening administrative capacity in this area are lagging behind.

Some progress has been made against *torture and ill-treatment*. A new Law passed in July has tasked the Ombudsman to prevent torture and ill-treatment. However, occasional cases of violence in police stations continue to occur. Reported cases are still processed slowly. The number of final verdicts remains low. Some progress can be reported with the *prison system*. The legal and institutional framework is improving. The Amnesty law passed last year has contributed to make prisons less overcrowded. Some rehabilitation work has been carried out on prison facilities and four new buildings were constructed and put in use. However, prison conditions still do not fully comply with European standards. *Freedom of expression* is, overall, respected in Montenegro. Progress has been made towards enhancing media freedom. However, sound implementation of the regulatory framework has still to be confirmed. Investigation of past cases of violence and of continuing threats against investigative journalists is lagging behind, as is journalists' compliance with professional ethics standards.

*Freedom of assembly and association* are, overall, respected in Montenegro. Very good progress has been made on cooperation between State institutions and *civil society organisations*, which is a key priority of the Opinion.

Some progress has been made in promoting and protecting *women's rights*. The government adopted in June the Strategy for protection against domestic violence for the period 2011-2015; however, state activities to effectively protect victims of domestic violence are lagging behind. Access for women to employment rights and to decision-making posts in public and private sector are not being sufficiently addressed.

As regards *children's rights*, some progress has been made on improvement of the legal, regulatory and institutional framework. The capacities of the Council for the Rights of the Child have increased. However, the situation is not fully satisfactory when it comes to strengthening the institutions dealing with children's rights, protecting the rights of children with disabilities and without parental care or respecting children's privacy.

Some progress has been made with the rights of *persons with disabilities*. However, they continue to face problems with access to economic and social rights, notably to education and employment. Deinstitutionalisation is at an early stage and conditions of the Komanski Most institute are not yet in line with European and international standards.

As regards *anti-discrimination policy*, efforts have been made. The Law on the Ombudsman was passed in July; he has now responsibility over cases of anti-discrimination. An advisor on human rights and anti-discrimination was appointed in September in the Prime Minister's Office. A Council for the protection against discrimination has been established, to monitor and coordinate the work of the authorities in this field. Awareness-raising campaigns and trainings for civil servants have been organized. However, the effective implementation of the legal and institutional framework on anti-discrimination remains a challenge, and its alignment with the *acquis* it is still limited. The most vulnerable groups continue to face discrimination, including by public entities.

Some progress has been made as regards *labour and trade union rights*. However, bipartite social dialogue and the development of autonomous social dialogue remain insufficient,

especially at local level. Implementation and enforcement of labour law remains a serious challenge.

Limited progress has been made on *property rights*. The process of restitution remains very slow. The Parliament adopted in July amendments to the law on state survey and immovable property cadastre; yet, functioning of the cadastre system remains to be further improved. As regards *minorities*, the interethnic climate in Montenegro remains smooth. Progress has been achieved on harmonising the legal framework with the Constitution. Some effort has been put to facilitate civil registration of Roma, Ashkali and Egyptian population. However, RAE persons continue to be the most vulnerable group facing discrimination in access to economic, social, cultural, economic and political rights. The situation of displaced RAE persons is a matter of concern, particularly in the Konik area.

As regards *personal data protection*, some progress has been made. The Agency for Protection of Personal Data has been established and started functioning, although still lacking of an adequate allocation in terms of human resources and financing. It is actively involved in protection of personal data. However the Agency has not yet established a prior-checking system, as stipulated by the Data Protection Directive. Its capacities for investigation and analysis need to be further developed and its independence needs to be fully ensured in practice. Legislation on retaining certain personal data has yet to be aligned with the Data Retention Directive. A proper balance has still not been struck between the Information Secrecy Act, the Law on protection of personal data and the Law on free access to information.

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

### *Conclusion*

Overall, Montenegro has made some progress in this area, notably as a result of its efforts to address the relevant key priorities set out in the Commission Opinion. Further sustained efforts will be needed to align with the *acquis* in this chapter, in particular to implement and enforce it effectively in the medium term. Further strengthening of administrative and implementation capacity is needed.

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

There has been some progress on **migration**. A new strategy for integrated management of migration for 2011-2016 and the corresponding action plan for 2011-2012 have been adopted. The police developed software for online reporting by hotels of short-term stays by foreigners. The readmission agreement with the EU continues to be implemented smoothly. Montenegro signed a bilateral readmission agreement with Kosovo and ratified the existing readmission agreement with Albania. Construction of a reception centre for foreigners is in its final phase. The number of irregular migrants detected increased in 2011, partly due to the events in the southern Mediterranean region. Further efforts are needed to ensure full alignment with the *acquis* on legal migration, notably on right to family reunification, long-term residence and conditions of admission of third-country nationals for the purposes of studies. Steps are to be taken to strengthen administrative capacity and to improve inter-agency cooperation. In this area, the country is advanced.

Some progress has been made in the area of **asylum**. Amendments to the Law on foreigners were enacted in July, with the aim of bringing it closer to the EU *acquis* and international standards. A national database for checking asylum seekers' personal data, including

fingerprints, has been set up. Reception conditions for asylum applicants have improved, but further efforts are needed to ensure that they have access to healthcare, education and personal documents. Construction of a centre for asylum-seekers is under way. Both the law on asylum and the law on foreigners are yet to be fully implemented and harmonised with the EU *acquis* and international standards. The quality of adjudication of asylum claims needs to be improved. The State Asylum Appeals Commission has continued to render its decisions on asylum cases mainly on procedural rather than substantive aspects. During the reporting period, out of 96 asylum applications submitted, 57 were rejected as groundless, 37 procedures were suspended and 3 persons were granted subsidiary protection. In this area, the country is moderately advanced.

There has been some progress on **visa policy**. Bilateral agreements concluded with Bulgaria, Croatia and Serbia complemented the country's limited consular network, as their consular offices issue visas for Montenegro in a number of third countries. In 2010, a total of 2,258 visas were issued, out of which Montenegrin consular offices issued 1,773, Bulgarian 406 and Serbian 79. There is still neither an online link between the diplomatic and consular missions and the Ministry of Foreign Affairs and European Integration's (MFAEI) national visa system nor a visa sticker with security features. The number of visas issued at the border is still relatively high, which is a cause for concern. The administrative and technical capacity of the MFAEI and of the country's diplomatic and consular network need to be upgraded. The country has not yet fully aligned its legislation with the EU negative and positive lists. Preparations in this area are progressing slowly.

Visa liberalisation for Montenegrin citizens travelling to the Schengen area has been in force since 19 December 2009. Implementation of the visa-free regime has been smooth so far, with small numbers of asylum-seekers and irregular migrants detected in the Schengen area. To ensure the continued implementation of the commitments, a post visa liberalisation monitoring mechanism was established in view of increased numbers of asylum seekers from the region. The Commission presented its first monitoring report to the European Parliament and the Council in June 2011.

Progress can be reported in the field of **external borders and Schengen**. The integrated border management strategy and action plan have been implemented. All 28 border crossing points have been equipped with the necessary IT equipment, including passport readers, and have online access to the national and Interpol databases. A system for electronic surveillance of the blue border has been set up and a video monitoring system was installed in the ports of Bar and Kotor. A risk assessment on green and blue border safety has been adopted. Cooperation with Frontex is good and Montenegro was involved in a joint operation. The institutional and administrative capacity of the border police has been strengthened, notably with the aid of training based on common EU standards. Further efforts are needed to maintain the capacity of the border police and avoid frequent rotation of trained staff. The security of the blue border and the border with Kosovo need to be substantially strengthened. Preparations in the area of external borders and Schengen are advanced.

There has been good progress in **judicial cooperation in civil and criminal matters**. As regards civil matters, Montenegro ratified the Hague Conventions on the taking of evidence abroad in civil and commercial matters, and on the service abroad of judicial and extrajudicial documents in civil and commercial matters. Practical enforcement of both the national and international legal frameworks needs to be improved. As regards judicial cooperation in criminal matters, the legal framework for fighting serious and organised crime at regional and international levels has been strengthened. Montenegro ratified an extradition agreement with

Croatia covering own nationals, amended the existing extradition agreement with Serbia and signed an equivalent accord with the former Yugoslav Republic of Macedonia. The agreements with Bosnia and Herzegovina on mutual legal assistance in civil and criminal matters and on mutual recognition of decisions in criminal matters were also ratified in December 2010. However, the legal framework is not yet complete. Further efforts are needed to align it fully with the *acquis*, in particular by applying legislation on the European evidence warrant and the principle of mutual recognition of judgments and probation decisions. The capacity of the Ministry of Justice to implement the existing framework for judicial cooperation in criminal matters remains to be strengthened. Montenegro needs to make sure that it meets all the criteria, notably on personal data protection, to conclude cooperation agreement with Eurojust. Preparations in this area are progressing.

Progress has been made in the area of **police cooperation and the fight against organised crime**. Montenegro stepped up its efforts to strengthen the fight against organised crime based on threat assessment and proactive investigations, increased cooperation with regional and EU partners, efficient processing of criminal intelligence and enhanced law enforcement capacities and coordination, and to develop a solid track-record in this area, which is a key priority set out in the Opinion. Regional and international police cooperation has improved, and the number of investigations and convictions in the area of organised crime has gradually increased. During the reporting period, Montenegro successfully conducted a number of police operations in close cooperation with Interpol, Europol and some EU Member States, which lead to the indictment of 22 persons. An international law enforcement coordination unit (ILECU) has been formally established to improve cooperation and investigations in cases with a foreign dimension. Montenegro continued to cooperate with Interpol and other relevant organisations. The police signed a bilateral agreement with the Italian police on cooperation in the fight against organised crime and drug trafficking. Similar bilateral police cooperation agreements were signed with Serbia and Croatia.

The policy framework in this area has improved. An action plan for the period 2010-2012 for the fight against organised crime and corruption has been adopted, along with a police development and operational strategy for the period 2011-2013. The new Criminal Procedure Code (CPC) became fully applicable in August 2011. It established a prosecutor-led investigation model, extended the use of special investigative measures, introduced the reverse burden of proof for property of suspicious legal origin and extended confiscation of criminal assets. The legislative framework and institutional framework for witness protection is in compliance with international standards.

During the reporting period, financial investigations in two cases have lead to the temporary seizure of assets, amounting to over € 20 million. An organised crime threat assessment has been developed and further steps were taken to establish an intelligence-led policing (ILP) model. A joint investigation team has been put in place and an undercover unit set up within the Criminal Police Directorate. The institutional and administrative capacity of the police has been strengthened, including with the aid of training courses to improve its capacity to fight organised crime and corruption. Specific training on the new provisions of the CPC has been given to law enforcement agents, judges and prosecutors.

Yet, insufficient information-sharing between prosecutors and law enforcement agents and restrictive provisions on delegating investigations to the police are hampering smooth implementation of the new CPC. Cooperation and coordination between police and prosecution need to be improved. Use of special investigative measures is rare and hampered by the lack of adequate equipment and specialised human resources. The new Law on internal

affairs and amendments to the rulebook on the internal organisation of the police are still to be adopted. Frequent rotation of trained police officers in expert areas is a challenge in terms of maintaining capacity and professionalism.

Police and prosecutors' capacity to conduct financial investigations, trace criminal assets and present related evidence before the courts remains to be strengthened. Intelligence-led policing is still at an initial stage and remains to be implemented across the country. The ILECU is not yet fully functional and crime mapping is at initial stage. Further efforts are needed to strengthen the financial capacity and autonomy of the Witness Protection Unit (WPU). The level of inter-agency cooperation remains insufficient and impeded by the lack of a national integrated intelligence system. Operational cooperation with Europol needs to be put in place and a liaison officer posted.

Progress has been made in the fight against *money laundering*. A new rulebook on the internal organisation and job descriptions of the Administration for prevention of money laundering and terrorism financing has been adopted. The number of staff of the Financial Intelligence Unit (FIU) has been increased slightly. Inter-agency cooperation on crime suppression has been stepped up under an agreement signed by the relevant authorities in December 2010. Cooperation with other countries has been strengthened by bilateral agreements on exchanges of financial intelligence data signed with Moldova, San Marino and Israel. Similar agreements with the Russian Federation, Slovenia and Aruba have been updated.

The Insurance Supervision Agency adopted guidelines on risk analysis on money laundering and procedures for identifying suspicious transactions. Reporting of suspicious transactions by the banking sector has increased. However, banks are still the only entities reporting. The overall level of reporting of suspicious transactions by relevant bodies remains insufficient to allow proactive investigations by prosecutors. Suspicious transactions are still reported on paper forms which encumbers the procedure. The Law on the prevention of money laundering and terrorism financing remains to be amended in line with MONEYVAL recommendations. High staff turnover and limited technical capacity are hampering effective functioning of the FIU. The analytical capacity of law enforcement agencies in this area needs to be increased. There have been only two final convictions for money laundering in the reference period.

Some progress has been made with regard to *trafficking in human beings*. Montenegro ratified the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse. The government adopted an action plan defining the activities in the fight against trafficking in human beings for the period 2010-2011. Fifteen trafficking offenders were given prison sentences in 2010. Substantial public awareness-raising and training activities continued. There is a good cooperation with civil society organisations in this area. At the same time, identification and protection of victims, especially children, and other vulnerable groups need to be strengthened considerably. Only one victim of trafficking was identified during the reporting period. More efforts are needed in order to protect victims and make their reintegration into society easier.

Montenegro has made progress with addressing challenges posed by organised crime. Further work needs to focus on putting in place and using the various instruments necessary for efficient police and investigative work, including intelligence-led policing, establishing an integrated intelligence information system, strengthening proactive investigations and interagency cooperation. Effective implementation of the new Criminal Procedure Code is the key to achieving sustainable results in this area. Further efforts are needed in the fight against trafficking in human beings and fight against money laundering in particular. Preparations in

the area of anti-money laundering are progressing slowly. In the fight against trafficking in human beings, Montenegro is moderately advanced.

There has been some progress in the **fight against terrorism**. The government adopted a strategy for preventing and combating terrorism, money laundering and terrorist financing for the period 2010–2014, along with an action plan for implementing the strategy for the period 2010–2012. A National Commission for implementing the strategy has been established, made up of representatives from all the relevant institutions. The special counter-terrorism unit in the Police Directorate received training.

Capacity to detect and address activities possibly linked to terrorism remains limited. The lack of a uniform inter-agency information system at national level, allowing transmission of classified documents, considerably hinders counter-terrorism efforts. Preparations in this area are moderately advanced.

Progress can be reported on **cooperation in the field of drugs**. The Law on prevention of misuse of drugs was enacted by parliament in May 2011, thus completing the national legislative framework. During the reporting period, Montenegro successfully conducted a number of police operations, in close cooperation with the police forces of EU Member States and the US Drug Enforcement Agency, which led to the seizure of higher quantities of cocaine and the arrest and prosecution of members of organised crime organisations. Regional and international police cooperation has been strengthened with the ratification and implementation of bilateral agreements on the subject of organised crime with Croatia, Serbia and Italy. A National Office on Drug Prevention has been established within the Ministry of Health and a threat assessment on drug trafficking completed. Some progress has been made in relation to drug prevention in schools and detention centres.

Drug trafficking remains a major concern, as Montenegro is one of the main Balkan routes for drug trafficking to and from the EU. The amount of seizures remains low. In the reference period, just 728 kg of marijuana, 6 kg of heroin and a small quantity of other drugs were seized. Measures to fight infiltration of the legal system by organised crime organisations need to be stepped up, as does cross-border police cooperation. The administrative and technical capacity of the law enforcement agencies to fight drug-related crime has to be strengthened. Law enforcement cooperation and coordination, in particular to ensure the security of the blue border, needs to be reinforced. A focal point for cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) remains to be appointed. Further efforts are needed on drug prevention and on treatment and rehabilitation of drug users. Preparations in this area are progressing.

Some progress has been reported on **customs cooperation**. A customs cooperation agreement was signed with Serbia in November 2010. The Customs Administration carried out a gap analysis of customs blueprints, which highlighted the need to initiate the procedure for accession to the Convention on mutual assistance and cooperation between the Member States (Naples II). The Convention on the use of information technology for customs purposes has not been ratified yet. The technical and administrative capacity of customs services needs to be further upgraded and cooperation with other law enforcement agencies enhanced in order to fight organised crime effectively. Preparations in this area are progressing.

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

*Conclusion*

Further progress has been made on strengthening the legal and institutional framework in the area of justice, freedom and security. Some progress has been made in the field of migration and asylum, but further efforts are needed to ensure proper reception conditions for asylum-seekers and irregular migrants. Visa policy requires further alignment. Progress has been made in the area of border management. Good progress has been achieved on strengthening judicial cooperation, particularly in criminal matters. A new strategy was adopted for fighting terrorism. Progress has been made on addressing challenges in the fight against organised crime, in particular in the form of closer international and regional cooperation. The number of related investigations and arrests, notably in the area of drugs trafficking, increased slightly. Further efforts to tackle drug trafficking are needed. Intelligence-led policing and inter-agency cooperation also need to be improved. Financial investigations in two major cases led to the temporary seizure of assets of significant amount. Yet, the overall number of financial investigations and confiscations of criminal assets remains low. Investigation and prosecution mechanisms have to be strengthened, in particular in the areas of trafficking in human beings and money laundering. Amendments to the laws on internal affairs and on preventing money laundering are still pending. Preparations in this area are on track.

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

Good progress can be reported in the area of **research and innovation policy**. Political commitment and administrative capacity were strengthened by the creation in December 2010 of a new Ministry of Science, responsible for policymaking and funding of research activities. In addition, the government established in February 2011 a new Council for Scientific and Research Activity comprising 11 members representing the public and private sectors, research institutes and academics.

With respect to research cooperation under the Seventh EU **Framework Programme** (FP7), Montenegro organised several information days, participated regularly in FP7 management meetings and built a good functioning network of national contact points. It has also taken action to stimulate participation by Montenegrin research entities in FP7 by granting financial support to successful applicants. However, in terms of successful projects, progress is moderate.

Montenegro is actively pursuing research opportunities with other international partners and has concluded several bilateral science and technology agreements with neighbouring countries and international partners such as COST, EUREKA and NATO.

Some progress was made towards integration into the **European Research Area** (ERA). Montenegro has taken several further measures to implement the National Strategy for Science and Research Activities (2008-2016). A new Law governing scientific research activity was adopted in December 2010. It sets out conditions for State funding for both public and private institutions in 14 research programmes and priority areas in line with FP7. Montenegro has also taken several decisions to increase use of information technology for research purposes. The government has set up an electronic information system on scientific and research activities which aims at processing automatically all information of interest to scientific activities in Montenegro and abroad. It has also adopted an information and communications technology (ICT) development plan to assess use of ICT for scientific research activities, review the legislation adopted in the ICT field and analyse the networking between ICT companies and scientific research institutes. In January 2011, a strategy for development of SMEs was adopted, covering the period 2011-2015. It focuses on creating better business conditions and entrepreneurship for SMEs and includes several measures to

stimulate and monitor research activities of SMEs which, in turn, will contribute to the Innovation Union. In March 2011, an Action Plan on Mobility of Scientists was adopted containing measures aiming at strengthening inward, outward and inter-sectoral mobility over the period 2011-2012 and, in doing so, preparing for adoption of the European Charter and Code of Conduct for the recruitment of researchers. EURAXESS, the mobility portal organised by the University of Montenegro which is the bridgehead organisation, has been fully operational since November 2010. Montenegro launched a feasibility study on establishing science parks and centres of excellence.

In the absence of valid statistics, it has not been possible to monitor progress on investment in research, but the level is still very low (estimated at 0,13% of GDP in 2008). The Ministry of Science and the Statistical Office are currently carrying out a statistical survey in line with EU standards.

### *Conclusion*

Good progress can be reported in the areas of science and research. The institutional and legislative framework for scientific research activities has been strengthened and several measures have been taken to improve the mobility of researchers. However, investment in research remains weak and further efforts are needed in order to establish stronger links between the scientific community and the private sector and stimulate public and private investment in scientific research activities. Further efforts are also required to increase participation in the Seventh EU Framework Programme for research activities. Preparations for the Innovation Union need to be duly considered. Overall, the action taken is in line with and contributes to the objectives set at EU level for research and innovation. Preparations in this area are well on track.

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

Some progress has been made in the fields of **education and training**. The legislative framework has been strengthened. A new Law on the national qualifications framework and a corresponding action plan covering the period 2011-2012 were adopted in December 2010. In December also, Amendments to the Law on pre-school education were adopted in compliance with the strategy for early and pre-school education, providing for the enrolment of five-year-olds in primary school (2010-2015). The first Law on adult education was adopted in March 2011. Yet, planned educational reforms are slow in being implemented and the human and financial resources of the newly established Ministry of Education and Sports (formally Education and Science) are weak. Montenegro's participation in the latest PISA helps to identify gaps in the education reform. As regards inclusive education, the Law on education of children with special needs was amended to provide further support. In addition, implementation of the existing legislation on inclusive education for vulnerable groups and children with disabilities is continuously improving. There was some progress with vocational education and training (VET) consisting mainly in the adoption of a set of rulebooks on examination and evaluation of formally and informally acquired knowledge. Yet, the VET system needs to be modernised with a view to responding better to labour market needs (*see also Economic criteria*).

Implementation of the Bologna process in higher education continued. A strategy for quality assurance and another for higher education development and financing were adopted in March and April 2011 respectively. The challenge remains to be in the implementation phase of these strategies, in part due to the limited administrative capacity. Members of the new

Higher Education Council have been appointed in accordance with the amended Law on higher education. The new Council comprises thirteen members appointed for four years. As regards student mobility, students' participation in various European mobility programmes has been increasing constantly. The Tempus programme remains the most important instrument for reforms in higher education in Montenegro.

In the field of **youth** policy, progress has been made regarding participation by Montenegro in the Youth in Action Programme's European Voluntary Service (EVS) and cooperation with the countries neighbouring the EU.

Some progress can be reported in the field of **culture**. Montenegro is participating in the EU Culture programme. It submitted in March 2011 a request to join the Europe for Citizens programme.

### *Conclusion*

Some progress can be reported in the area of education and culture. Quality assurance mechanisms and a national qualification framework have been adopted, in line with the Bologna process. Yet, implementation is still a challenge. The visibility of and access to the Youth in Action programme have been enhanced. Cooperation with neighbouring countries has been strengthened via the Tempus programme. Further efforts will be required to ensure inclusive education for vulnerable groups and children with special needs. Capacities for sound financial management and financial control still need to be strengthened in a view of Montenegro's participation in the decentralised EU programmes. Overall, in the area of education and culture, alignment with the *acquis* is moderately advanced.

## **4.27. Chapter 27: Environment**

Little progress has been made in the area of the **environment**. As regards *horizontal legislation*, a new Law on offences providing for special sanctions for environmental violations was adopted in January 2011. This law aims at aligning with the Directive on environmental crime but further efforts will be needed to align fully this law with the *acquis*, especially as regards criminalisation of specific offences, criminal penalties and sanctions other than fines. An 'Aarhus Centre' was opened in April 2011 with the main goal of improving access to information, public participation in decision-making and access to justice in environmental matters. Implementation of environmental impact assessments has improved, but involvement of civil society and other stakeholders is still insufficient. No progress was achieved on aligning national legislation with the *acquis* as regards access to environmental information, access to justice, environmental liability and strategic environmental assessment provisions on trans-boundary aspects.

Some progress have been made in the field of *air quality* by adopting implementing legislation on air quality monitoring and limit values for the pollutant content in liquid fuels and for emissions from stationary sources. Laws on ratification of the three protocols on long-range transboundary air pollution were adopted in June 2011. However, setting up an air monitoring system and identifying conurbations and zones are still at an early stage. No improvement can be reported in the administrative capacity in this field.

Progress on *waste management* was limited to adoption of implementing legislation relating to permits, import and export of waste and treatment of certain waste streams. As regards infrastructure, the first recycling centre has begun operating in Podgorica. Most waste, however, is still disposed of in open sites or multiple unauthorised dumps. Development of an

integrated waste management system is at an early stage and little progress was achieved, in particular, with construction of regional landfills in line with EU standards.

No progress can be reported in the field of *water quality*. Insufficient investment, unclear division of responsibilities between the authorities and lack of coherence in their action are seriously hampering progress in this area.

In the field *nature protection*, some progress can be reported with regard implementing legislation – a number of rulebooks have been adopted on different aspects of management and protection of wild fauna and flora. However, implementation of the Habitats and Birds Directives, including building up scientific data for designation of protected areas and future Natura 2000 sites, is lagging behind.

As regards *industrial pollution and risk management* some progress was made in aligning with the Waste Incineration and Solvents Emissions directives.

Some progress can be reported in the field of *chemicals*, mainly related to ratification of the Stockholm and Rotterdam Conventions.

As regards the fight against *noise*, a new Law on noise protection was adopted in May 2011.

Regarding **climate change**, Montenegro made little progress on general policy developments. Significant awareness-raising is required at all levels. The issue of climate change is integrated scarcely or not at all into sectoral policies, strategies and plans, with the exception of the national forest policy. A National Policy and Action Plan for Climate Change are still missing. At the international level, Montenegro supported the EU's position at COP16 in Cancun and has associated with the Copenhagen Accord but has not formulated pledges for greenhouse gas (GHG) emissions reduction. Montenegro submitted the first national communication under the UNFCCC in October 2010 and development of the second is under way. The country participated actively in the climate work under the Regional Environmental Network for Accession (RENA).

As regards the EU climate *acquis*, the national legislation is at an early stage of alignment. A Decree on limit values for the pollutant content in liquid fuels of petroleum origin has been in force since 1 January 2011. Further efforts are required towards convergence with the EU Monitoring Mechanism Decision. No progress was made on preparing for inclusion of Montenegro's installations in the EU emissions trading system (EU ETS). Concrete steps are needed to gradually move towards taking a GHG reduction target in order to be able to implement EU climate *acquis*, especially the EU Emissions Trading Scheme and to join the EU Effort-Sharing. As far as ozone-depleting substances and fluorinated gases are concerned, Montenegro continues to implement the Montreal Protocol, but needs to take further steps to align with the EU legislation. Montenegro associated itself with the Declaration adopted at the 22<sup>nd</sup> meeting of the Parties to the Montreal Protocol on the global transition away from HCFCs and CFCs.

Some progress was made regarding **administrative capacity**. Following the government reshuffle in December 2010, responsibility for environmental policies was transferred to the Ministry for Sustainable Development and Tourism and the part of the ministry responsible for the environment was restructured, based on a new organisation chart. A new department in charge of waste management and municipal development was created. However, this has not yet resulted in any significant improvement in administrative capacity. In particular, the heavy reliance on temporary staff and high turnover within the ministry remains an issue. The

administrative capacity of the Environmental Protection Agency (EPA) has improved. However, the EPA's inspection section needs to be reinforced. While the general number of inspections at national level is increasing, there are problems with handling inspections properly, recording breaches and filing infringement cases for further prosecution. Administrative capacity as well as technical and financial resources need to be considerably strengthened for the country to be able to align with and implement the requirements of the EU climate change policy and legislation.

### *Conclusion*

Montenegro has made little progress with alignment and implementation of the *acquis* in the field of the environment and climate change. Progress is mainly related to adoption of implementing legislation on waste management and nature conservation and ratification of some international environmental agreements. The administrative capacity of the Environmental Protection Agency has improved. Montenegro needs to speed up its strategic planning in all sectors and find sustainable funding for implementation. The environment and climate change has to be integrated into other sectors more systematically, in particular energy. Capacity for environmental impact assessments needs to be improved and substantive public consultations held. The capacity of the administration at national and local level responsible for environment and climate change needs to be strengthened.

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

There has been progress in the area of **consumer protection**. The annual report on the Implementation of the National Consumer Protection Programme (NCPP) for 2010-2012 and its corresponding action plan was adopted in July 2011 by the government. Implementation is on track but the Department in charge within the Ministry of Economy needs to be strengthened in order to enhance coordination and further improve implementation. The administrative capacity of the Arbitration Board, responsible for settling consumer disputes, requires also strengthening. There are only two non-governmental organisations actively involved in consumer protection, both of which suffer from a serious lack of resources. The Council for cooperation of governmental and non-governmental bodies, established in April 2010, does not involve any of them yet. Awareness of consumer protection still needs to be raised as the majority of the population (87 %) believes that it is not sufficiently informed.

There has been some progress on *product safety issues*. In compliance with the Law on general product safety and with the aim of further aligning with the *acquis*, a rulebook establishing Montenegrin standards on general product safety has been adopted. A body has been established for coordinating the activities of State and non-State authorities responsible for market surveillance, providing guidelines and monitoring objectives set in the market surveillance strategy (*see also Chapter 1 – Free movement of goods*).

There has been some progress as regards *non-safety-related issues*. A new Law on tourism, partly transposing the Package Travel Directive, was adopted in October 2010. The new Law on consumer protection has yet to be adopted to align national legislation with several EU Directives including those dealing with unfair commercial practice, unfair terms of contract and injunctions, distance selling, certain aspects of timeshares and sale of consumer goods and with Commission recommendations on arbitration and mediation in disputes.

There has been some progress in the area of **public health**. e-health is fully integrated into the primary healthcare system but its implementation is still slow. Efforts to upgrade healthcare information systems need to continue in order to guarantee safe management of patient data.

Amendments to the Law limiting use of *tobacco* products were adopted in June 2011. Yet, smoking remains a serious problem which is having negative effects on public health and more efforts are needed to address it.

With regard to *communicable diseases*, an action plan to implement international health regulations and a 2010-2014 strategy for the fight against HIV/AIDS have been adopted in June 2011. The aim of this strategy, in line with EU and international commitments and strategies, is to keep Montenegro a low-prevalence country for HIV, to ensure universal access to HIV prevention and treatment interventions and to improve the quality of life of people living with HIV through a coordinated multi-sectoral response. However, surveillance and response mechanisms need strengthening, in particular with reference to the groups at greatest risk.

Improvements were made to the legislative framework on *blood* but further efforts are needed to establish a modern blood transfusion system in line with EU standards and to achieve self-sufficiency in securing safe *blood and blood products*. No progress can be reported in the field of *tissues and cells* and in *organ donation and transplantation*.

Limited progress can be noted in the field of *mental health*. An action plan for mental health improvement in Montenegro (2011-2014) was adopted in August 2011 by the National Mental Health Commission. Yet, implementation of the national strategy is still slow, due to limited administrative capacity and limited availability of qualified staff.

In the field of *cancer* prevention and control, adequate resources need to be allocated to organise and implement the national programme for early detection of breast cancer adopted in June 2010. Implementation of the screening programmes on breast, cervical and colorectal cancer needs to be accelerated. There is no specific policy document – a national strategy or action plan – to prevent and reduce alcohol-related harm that could be assessed against the EU strategy on *alcohol*.

### *Conclusion*

Overall, some progress has been made in the fields of consumer and health protection. Montenegro continues to make progress towards alignment with the EU consumer policy and the EU health strategy. However, further efforts are required to align national legislation with the *acquis* and build up administrative capacity. In the area of consumer protection, support for consumer organisations needs to be increased and awareness-raising activities stepped up. Concerning health, both monitoring and evaluation need to be strengthened when it comes to communicable diseases, notably with regard to vulnerable communities. Implementation of a modern blood transfusion system is still pending. Attention needs to be paid to alignment with EU legislation in the fields of tissues, cells and organs.

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

Some progress has been made in the **customs legislation**. The Decree on harmonisation of the customs tariff nomenclature for 2011 has been adopted with the aim of aligning the nomenclature of the national customs tariff with the EU Combined Nomenclature for 2011. The Law on administrative fees has been amended to abolish all customs-related

administrative fees that were not in line with the Stabilisation and Association Agreement and the EU *acquis*. A new Decree allowed deferred payment of customs debt, within 30 days after acceptance of the customs declaration. Legislation providing stronger protection of intellectual property rights was adopted in June 2011 with the aim of aligning with the *acquis*. The new rulebook on cash controls, which includes details and procedures for moving cash into or out of the country and penalties for failing to declare such movements, entered into force on 29 June 2011.

The Montenegro customs authorities have made progress on building up their **administrative and operational capacity** and adopted a Business Change Management Plan, setting the timeframe for implementing the blueprints guidelines. Moreover, the administration established an action plan covering, amongst other things, trade facilitation and improved risk analysis. The customs authorities finalised the database for human resources management. On the basis of the training strategy, the newly created Division for Training organised systematic training for customs officers and business representatives. Montenegro joined the CUSTOMS 2013 programme. Further efforts are needed to strengthen internal control in order to prevent and detect corruption and other misconduct effectively. The department in charge of post-clearance controls needs to be strengthened so that it can systematically plan and operate *a posteriori* controls compensating for the reduction in physical and documentary checks.

In October 2010 Montenegro extended the functions of its national Customs Information System by adding new IT modules for transit, simplified procedures and customs tariffs. The latter follows a similar structure to the EU TARIC 2 application. No progress was made with future membership of the Common Transit Convention.

### *Conclusion*

Some progress has been achieved in customs legislation, mainly consisting of aligning the combined nomenclature with the EU Combined Nomenclature and abolishing all administrative customs fees which were not in line with the Stabilisation and Association Agreement and the *acquis*. However, further efforts remain necessary in areas such as management of quotas, security-related provisions and aligning with the EU customs legislation. In the areas of administrative and operational capacity, Montenegro needs to reinforce implementation of existing procedures and working methods. Additional efforts are needed on internal control, post-clearance control and prevention and detection of corruption and misconduct. Preparations for possible accession to the Convention on a Common Transit Procedure should be stepped up.

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

There has been some progress in the field of **common commercial policy**.

The country has generally continued to coordinate with the European Commission and to align with the policies and positions of the EU towards third countries and with international organisations.

Montenegro is not yet a member of the *World Trade Organisation* (WTO). It redoubled its efforts to ensure swift accession to the WTO, but accession negotiations are still pending.

Montenegro does not yet operate any formal *export credit* scheme. No progress was made on aligning national legislation in this context. Montenegro's legislation concerning export controls for *dual-use goods* is not yet fully in line with the *acquis*. The Law on foreign trade

in arms, military equipment and dual-use goods is not fully aligned with EU legislation, especially on brokering and transit provisions for dual use.

Montenegro is currently negotiating **bilateral free trade agreements** with Belarus and Kazakhstan. The negotiations for a free trade agreement with EFTA countries were concluded in July. It is scheduled to be signed in November and enter into force in July 2012. Montenegro continues to play an active and constructive role within CEFTA. Parliament adopted a number of laws ratifying the most recent bilateral investment agreements and agreements on trade and economic cooperation (e.g. with the former Yugoslav Republic of Macedonia, the Czech Republic, Malta, etc.).

Limited progress has been made on strengthening the administrative capacity of the Department for multilateral trade cooperation and international economic relations in the Ministry of Economy. It needs to be reinforced in terms of both human resources and general trade-related expertise. The inter-ministerial coordination mechanism already in place needs further strengthening.

As regards **development policy and humanitarian aid policies**, no developments have been observed. Donor activities are still taking place on an ad hoc basis.

### *Conclusion*

Some progress has been made in the area of external relations. Coordination of positions in international organisations with the EU has been smooth. However, further awareness of Montenegro's obligations in this area will be needed, together with strengthening institutional and administrative capacity on multilateral trade issues and development and humanitarian aid.

## **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 66 out of 67 EU declarations and Council decisions (99% alignment). (*As regards the International Criminal Court, see Political criteria 2.3 — Regional issues and international obligations.*)

Fifteen more countries have recognised Montenegro as an independent State. However, there are still 51 countries that have not yet recognised Montenegro since it gained independence in 2006.

There have been delays in appointment of a Political Director and European Correspondent.

Montenegro has implemented all United Nations 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. Regarding nuclear safeguards, Montenegro ratified the Comprehensive Safeguards Agreement and its Additional Protocol with the IAEA in December 2010.

With regard to *cooperation with international organisations*, Montenegro presented its first Annual National Programme within the first NATO Membership Action Plan (MAP) in October 2010. Montenegro's broad Council of Europe post-accession monitoring was changed to dialogue-based monitoring.

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. In particular, it has adopted the security arrangements for implementing the Agreement on security procedures for the exchange and protection of classified information between Montenegro and the European Union. Preparations for introducing the communication networks for associated countries (Associated Countries Network, ACN) are ongoing.

As regards the **common security and defence policy (CSDP)**, and in particular *civil and military crisis management*, an agreement between the EU and Montenegro, establishing a framework for Montenegro's participation in EU crisis management operations, was signed in February 2011. Montenegro continues to participate in international operations such as ISAF in Afghanistan, UNMIL in Liberia and EU NAVFOR Atalanta.

### *Conclusion*

Montenegro has made progress in this chapter. The country has aligned itself with all EU declarations and Council Decisions and has continued to make a strong contribution to regional stability. However, necessary legal and administrative measures remain to be adopted, together with the appropriate adjustments.

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

The legislative framework for introducing **public internal financial control (PIFC)** was completed in 2010 with the adoption of the secondary legislation required, including a rulebook on establishment of financial management and control (FMC) systems, instructions on annual reporting on FMC systems and internal audit (IA) and amendments to the State Treasury directions

Implementation needs to be strengthened. The capacity of the financial units to support management needs to be significantly reinforced. The understanding of delegation, empowerment and managerial accountability is still weak and needs to be consolidated and put into practice. A more systematic approach is needed to ensure that the relevant capacity is created and maintained in both the central harmonisation unit (CHU) and budget users.

Some progress can be reported on establishment of **internal audit**. The administration is finding it difficult to recruit audit staff and too few auditors have so far been appointed. Substantial efforts and resources will be required to introduce international standards in internal audit.

In the case of **external audit**, further progress can be reported. With a view to reinforcing the independence of the State Audit Institution (SAI), the PIFC Law was amended in March 2011 to exempt the SAI from the obligation to submit an annual report on its FMC system and IA to the Ministry of Finance. The SAI is actively examining additional measures to ensure that its independence is in line with international standards

The SAI's capacity is steadily increasing. In addition to the audit of the annual financial statement of the government, 13 individual audits were conducted. But while all the SAI's administrative posts have been filled, 33% of the auditor posts are currently vacant. Efforts are required to adopt the law on the operation of the Audit Authority (AA), through which it will be formally separated from the SAI and ensure the AA's resources for its future operations. Administrative and managerial autonomy of SAI has to be ensured

Little progress can be reported on **protection of the EU's financial interests**. An anti-fraud coordination service (AFCOS) directly reporting to the Minister of Finance was established to coordinate cooperation with OLAF. However, formal confirmation is still awaited. Its administrative capacity remains limited. Further steps are needed to identify all the national authorities which need to be involved in cooperating with OLAF, to form an AFCOS network and to prepare the legal basis for its operations. Limited progress can be reported in the fight **against counterfeiting of the euro**. Training programmes on detection of forged banknotes continued, but overall investigative capacity in this area remains limited.

#### *Conclusion*

Montenegro has made progress in the field of financial control. However, the country needs to implement its financial management and control systems and to develop the internal audit function. Development of external audit remains on track. Montenegro is still at an early stage of developing cooperation with OLAF. Capacity to fight counterfeiting of the euro needs to be enhanced.

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

There have been no particular developments as regards **traditional own resources, VAT resources and GNI resources**. For progress in the underlying policy areas, *see chapters 16 – Taxation, 18 – Statistics, 29 – Customs union and 32 – Financial control*.

As regards **administrative infrastructure**, institutions are in place in the underlying policy areas indirectly affecting the own resources system. However, in addition to further strengthening these institutions, a fully operational coordination structure will be required to ensure correct calculation, forecasting, collection, payment and control of own resources and reporting to the EU on implementation of the rules on own resources.

#### *Conclusion*

Overall, there are no significant divergences between the systems in Montenegro and the EU in terms of basic principles and institutions for the underlying policy areas affecting correct application of the rules on own resources. In due course, a coordinating body will have to be set up to streamline and steer pre-accession preparations in the own resources field. The administrative framework for the application of the own resources rules is not yet in place.

## Statistical Annex

### STATISTICAL DATA (as of 30.09.2011) Montenegro

Basic data	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Population (thousand)	12)	612	615	617	619	621	623	624	625	628	630	619b
Total area of the country (km <sup>2</sup> )		13 812	13 812	13 812	13 812	13 812	13 812	13 812	13 812	13 812	13 812	13 812

National accounts	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Gross domestic product (GDP) (million euro)	1)	1 066	1 295	1 360	1 510	1 670	1 815	2 149	2 681	3 086	2 981	3 104
GDP (euro per capita)	2)	1 750e	2 113e	2 208e	2 435e	2 684e	2 912e	3 443e	4 280e	4 908	4 720	5 006
GDP (in Purchasing Power Standards (PPS) per capita)		:	:	:	:	:	6 900	8 400	10 000	10 800	9 700	9 800 e
GDP per capita in PPS (EU-27 = 100)		:	:	:	:	:	31	35	40	43	41	40e
Real GDP growth rate (growth rate of GDP volume, national currency, % change on previous year)		:	1.1	1.9	2.5	4.4	4.2	8.6	10.7	6.9	-5.7	2.5
Employment growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:	:
Labour productivity growth: GDP growth per person employed (% change on previous year)		:	:	:	:	:	:	:	:	:	:	:
Real unit labour cost growth (national accounts, % change on previous year)		:	:	:	:	:	:	:	:	:	:	:
Labour productivity per person employed (GDP in PPS per person employed, EU-27 = 100)		:	:	:	:	:	:	:	:	:	:	:
Gross value added by main sectors (%)												
Agriculture and fisheries	3)	12.4	11.9	12.2	11.6	10.9	10.4	10.1	8.5	9.3	10.0	9.2
Industry	3)	19.1	20.8	20.0	19.2	18.8	17.1	16.0	13.6	13.5	13.6	13.5
Construction	3)	4.3	3.9	4.1	3.4	3.5	3.6	4.3	4.2	7.7	6.5	6.1
Services	3)	64.2	63.5	63.8	65.8	66.9	68.9	69.5	73.7	69.5	69.9	71.2
Final consumption expenditure, as a share of GDP (%)		91.9	100.2	105.8	101.0	99.4	99.8	104.2	108.5	113.8	106.2	105.6
Gross fixed capital formation, as a share of GDP (%)		16.9	17.5	14.6	13.3	17.0	18.0	21.9	32.3	38.3	26.7	21.1
Changes in inventories, as a share of GDP (%)		5.5	5.9	4.1	2.1	-0.4	-0.3	3.6	1.5	2.3	0.4	1.7
Exports of goods and services, relative to GDP (%)		36.8	38.4	35.4	30.6	42.0	43.6	49.4	44.4	39.6	32.1	34.7
Imports of goods and services, relative to GDP (%)		51.1	62.0	59.9	47.0	58.1	61.1	79.1	86.7	94.0	65.4	63.1

Industry	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Industrial production volume index (2005=100)		87.7	86.8	87.7	89.5	101.8	100.0	100.9	100.9	99.1	67.5	79.4

Inflation rate	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Annual average inflation rate (CPI, % change on previous year)		:	:	:	:	:	:	:	:	9.2	3.4	0.5

Balance of payments	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Balance of payments: current account total (million euro)		:	:	-175	-102	-120	-311	-687	-1 078	-1 584	-896	-778
Balance of payments current account: trade balance (million euro)		:	:	-433	-359	-416	-674	-1 010	-1 607	-2 102	-1 372	-1 317
Balance of payments current account: net services (million euro)		:	:	100	112	148	196	197	439	399	385	446
Balance of payments current account: net income (million euro)		:	:	76	88	86	20	36	31	46	5	-22
Balance of payments current account: net current transfers (million euro)		:	:	82	58	62	147	90	59	73	85	114
of which government transfers (million euro)		:	:	:	:	:	6	7	2	9	5	16
Net foreign direct investment (FDI) (million euro)		:	:	87	39	51	399	470	568	582	1 066	552
Foreign direct investment (FDI) abroad (million euro)		:	:	0	5	2	4	26	115	74	33	22

of which FDI of the reporting economy in EU-27 countries (million euro)		:	:	0	0	1	3	2	7	6	2	19
Foreign direct investment (FDI) in the reporting economy (million euro)		:	:	87	44	53	403	496	683	656	1 099	574
of which FDI of EU-27 countries in the reporting economy (million euro)		:	:	73	32	38	337	300	461	378	782	287

<b>Public finance</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
General government deficit/surplus, relative to GDP (%)		:	:	:	-2.4	-2.0	-2.0	3.4	6.6	0.5	-4.4	-5.0
General government debt relative to GDP (%)		:	:	84.5	47.1	44.5	38.3	32.6	27.5	29.0	38.3	41.0

<b>Financial indicators</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
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)	4)	:	:	:	285	291	351	484	592	512	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	5)	:	:	:	403	437	615	1 099	1 557	1 209	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)	6)	:	:	:	494	547	867	1 587	2 728	2 339	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)		:	:	125	199	279	374	843	2 213	2 754	2 358	2 152
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:	:	:	:	:	:
Lending interest rate (one year), per annum (%)		:	:	:	:	:	12.1	10.3	9.3	9.4	9.4	9.6
Deposit interest rate (one year), per annum (%)		:	:	:	:	:	:	:	3.4	4.1	3.9	3.3
euro exchange rates: average of period - 1 euro = ... national currency	1)	:	:	:	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000
Effective exchange rate index (2000=100)		:	:	:	:	:	:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		:	:	55	50	60	173	329	490	337	397	416

<b>External trade</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Value of imports: all goods, all partners (million euro)		:	:	:	:	:	974.3	1 457.4	2 073.1	2 529.7	1 654.2	1 657.3
Value of exports: all goods, all partners (million euro)		:	:	:	:	:	460.6	441.1	454.7	416.2	277.0	330.4
Trade balance: all goods, all partners (million euro)		:	:	:	:	:	-513.7	-1 016.2	-1 618.4	-2 113.6	-1 377.2	-1 327.0
Terms of trade (export price index / import price index)		:	:	:	:	:	:	:	:	:	:	:
Share of exports to EU-27 countries in value of total exports (%)		:	:	:	:	:	53.5	66.5	69.2	62.2	48.3	55.9
Share of imports from EU-27 countries in value of total imports (%)		:	:	:	:	:	45.3	47.4	45.4	42.7	37.5	37.7

<b>Demography</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Natural growth rate: natural change (births minus deaths) (per 1000 inhabitants)		6.1	5.5	4.8	4.3	3.4	2.4	2.5	3.0	4.1	4.4	:
Infant mortality rate: deaths of children under one year of age per 1000 live births		11.1	14.6	10.8	11.0	7.8	8.4	11.0	7.4	7.5	5.7	:
Life expectancy at birth: male (years)		:	:	:	:	:	71.4	71.5	72.1	72.8	73.1	:
Life expectancy at birth: female (years)		:	:	:	:	:	77.0	76.6	77.2	78.1	77.9	:

<b>Labour market</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Population (15-64): total of population aged 15-64 (thousand)		:	:	:	:	:	:	:	:	:	:	:
Population in economic activity (15-64): total of population aged 15-64 that is economically active (thousand)		:	:	:	:	:	254.3	251.5	261.5	264.2	262.1	259.1
Total employment (15-64): total of population aged 15-64 that is employed (thousand)	7)	181.8	176.6	177.6	168.5	187.3	176.5b	176.7	210.7	219.4	211.7	207.9
Economic activity rate (15-64): share of population aged 15-64 that is economically active (%)	7)	60.4	57.1	59.1	58.9	51.7	59.0b	58.4	61.0	61.2	60.3	59.3
* Employment rate (15-64): share of population aged 15-64 in employment (%)	7)	38.5	37.1	37.7	36.2	37.4	40.9b	41.0	49.2	50.8	48.8	47.6
Employment rate male (15-64) (%)	7)	46.2	45.6	46.6	44.5	46.5	46.2b	47.8	56.6	58.3	56.0	54.3
Employment rate female (15-64) (%)	7)	30.6	29.0	29.0	28.1	28.8	35.6b	34.8	41.9	43.5	41.6	41.0

Employment rate of older workers (55-64): share of population aged 55-64 in employment (%)		:	:	:	:	:	:	:	:	:	:	:	:
Employment by main sectors (%)													
Agriculture		:	:	:	:	:	:	:	:	:	6.5	6.2	
Industry		:	:	:	:	:	:	:	:	:	14.0	13.9	
Construction		:	:	:	:	:	:	:	:	:	6.7	6.1	
Services		:	:	:	:	:	:	:	:	:	72.8	73.9	
Unemployment rate: share of labour force that is unemployed (%)		19.3	21.2	20.7	22.7	27.7b	30.3	29.6	19.3	16.8	19.1	19.7	
Share of male labour force that is unemployed (%)		:	:	:	:	:	:	:	18.1	15.9	18.0	18.9	
Share of female labour force that is unemployed (%)		:	:	:	:	:	:	:	20.9	17.9	20.4	20.7	
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 (%)		:	:	:	:	:	:	:	:	:	15.6	:	

### Social cohesion

Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Average nominal monthly wages and salaries (national currency)	181.0	211.0	149.1	173.9	195.3	213.1	246.0	338.0	416.0	463.0	479.0
Index of real wages and salaries (index of nominal wages and salaries divided by the CPI/HICP) (2000=100)	100.0	91.6	109.7	119.3	130.9	139.7	156.4	179.9	195.2	:	:
* Early school leavers - Share of population aged 18-24 with at most lower secondary education and not in further education or training (%)	:	:	:	:	:	:	:	:	:	:	:

### Standard of living

Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Number of passenger cars per 1000 population	185.2	161.0	166.8	171.8	176.1	190.9	244.7	285.6	298.5	283.9	260.1
Number of subscriptions to cellular mobile telephone services per 1000 population	:	639.6	775.5	674.4	778.7	872.0	1 127.4	1 097.9	1 611.5	2 496.5	2 201.4

### Infrastructure

Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Density of railway network (lines in operation, per 1000 km <sup>2</sup> )	18.1	18.1	18.1	18.1	18.1	18.1	18.1	18.1	18.1	18.1	18.1
Length of motorways (thousand km)	:	:	:	:	:	:	:	:	:	:	:

### Innovation and research

Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
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 (%)	:	:	:	:	:	:	:	:	:	:	:

### Environment

Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
* Greenhouse gas emissions, CO2 equivalent (tons, 1990=100)	:	:	:	:	:	:	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1000 euro GDP)	:	:	:	:	:	:	493.8	384.4	:	:	:
Electricity generated from renewable sources in % of gross electricity consumption	:	:	:	:	:	:	:	:	:	:	:
Road share of inland freight transport (% of tonne-km)	:	:	:	:	:	:	:	:	:	:	:

### Energy

Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Primary production of all energy products (thousand TOE)	:	:	:	:	:	:	982	795	1 136	622	1 267
Primary production of crude oil (thousand TOE)	:	:	:	:	:	:	:	:	:	:	:
Primary production of hard coal and lignite (thousand TOE)	:	:	:	:	:	:	982	795	1 136	622	1 267
Primary production of natural gas (thousand TOE)	:	:	:	:	:	:	:	:	:	:	:
Net imports of all energy products (thousand TOE)	:	:	:	:	:	:	-49	9	-25	-18	-20
Gross inland energy consumption (thousand TOE)	:	:	:	:	:	:	933	804	1 111	606	1 268

Electricity generation (thousand GWh)		2.7	2.5	2.3	2.7	3.3	2.9	3.0	2.1	2.8	2.8	4.0
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<b>Agriculture</b>	Note	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Agricultural production volume index of goods and services (producer prices, previous year=100)		95.0	107.0	106.0	101.0	104.0	99.0	102.0	89.0	:	:	:
Total utilised agricultural area (thousand hectare)	8)	518p	518p	518p	518p	518p	517p	517	516	516	516	516
Livestock: cattle (thousand heads, end of period)	9)	179e	178e	183e	175e	169e	118	115	109	106	101	119
Livestock: pigs (thousand heads, end of period)	9)	19e	21e	22e	24e	27e	11	13	10	10	12	12
Livestock: sheep and goats (thousand heads, end of period)	9)	293e	244e	241e	252e	254e	255	249	222	209	200	244
Production and utilisation of milk on the farm (total whole milk, thousand tonnes)	10)	197e	194e	198e	203e	209e	186	178	173	160	152	179
Crop production: cereals (including rice) (thousand tonnes, harvested production)	11)	3p	4p	5p	4p	3p	3p	3	2	3	3	17b
Crop production: sugar beet (thousand tonnes, harvested production)		:	:	:	:	:	:	:	:	:	:	:
Crop production: vegetables (thousand tonnes, harvested production)		:	:	:	:	:	:	:	:	:	:	151

: = not available

p = provisional

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) No official national currency exists. Euro is the currency in use.
- 2) Mid-year estimate of population used to calculate per capita values; the data are without Financial Intermediation Services Indirectly Measured (FISIM).
- 3) Data according to NACE Rev 1.1.
- 4) 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 euro and other currencies, excluding deposits by the Central Government. Monetary aggregate M11 comprises M1 increased by the Central Government's demand deposits in euro and other currencies. Monetary aggregate M2 includes M1 and the non-banking sector's time deposits with banks, in euro and other currencies, excluding deposits by the Central Government. Monetary aggregate M21 comprises M2 increased by the Central Government's time deposits in euro and other currencies.
- 5) As of 31 December. Instead of standard M2, data under national definition of M11 are provided.
- 6) As of 31 December. Instead of standard M3, data under national definition of M21 are provided.
- 7) Age group refers to persons aged 15 or more years until 2004; from 2005 onwards age group 15-64 is used.
- 8) Agricultural area includes: arable land, and area under pastures, fishponds and ponds.
- 9) Number of livestock in 1000 including enterprises and cooperatives and households.
- 10) Calculated net quantity in 1000 tonnes; including enterprises and cooperatives, and households.
- 11) Including households, enterprises and cooperatives; from 2010, data includes all cereals (wheat, rye, barley, oats, grain maize, buckwheat); from 2000 to 2009 only data on wheat included.
- 12) The figure for 2010 is estimated on the results of the 2011 population census, the figures from 2003 to 2009 are to be revised.