

## Conclusions on Montenegro

(extract from the Communication from the Commission to the European Parliament and the Council "Enlargement Strategy and Main Challenges 2012-2013", COM(2012)600 final)

Montenegro sufficiently meets the **political criteria** for membership of the EU. The legislative and institutional framework and policies have been improved with a view to strengthening the functioning of the parliament, the judiciary, anti-corruption policy, human rights and protection of minorities. The on-going constitutional and public administration reforms have further advanced. The track record on law enforcement has developed further. Efforts need to be pursued in the area of rule of law, in particular to finalise the on-going constitutional reform aimed at strengthening judicial independence and to further develop the track record of implementation, notably in the fight against corruption and organised crime. Montenegro has continued to play a constructive role in the region, to respect its international commitments and the conditions of the Stabilisation and Association Process.

As regards **democracy and rule of law**, Montenegro achieved progress in strengthening the legislative and oversight role of the *parliament*, including on rule of law matters. Implementation of recently adopted legislation on elections has started, and the administrative and expert capacity of the parliament has been reinforced. Transparency has improved and stand-alone committees on European integration and on anti-corruption have been provided for. Efforts undertaken to enhance the parliament's legislative and oversight capacity need to be pursued.

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

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

Some progress has been made with regard to the *judicial system*. Implementation of recently adopted legislation has started. Progress has been made with regard to the publication of court rulings and the case backlog. The process of constitutional reform to strengthen the independence of the judiciary in line with European standards remains uncompleted. Further efforts are needed to ensure merit based appointments and career development, as well as to strengthen accountability and integrity safeguards within the judiciary.

Some progress has been made in the area of *anti-corruption*. Implementation of recently-adopted legislation in the key areas of political party financing, prevention of conflict of interest and public procurement has started. The capacity of the supervisory institutions, in particular the State Election Commission, the State Audit Institution and the Commission for the Prevention of Conflict of Interest, needs to be enhanced. Montenegro has further developed its track record of investigations, prosecutions and convictions in corruption cases.,

but their number remains low and there are still no seizure or confiscation of assets ordered for corruption offences. Corruption remains widespread and continues to be a serious cause for concern, hindering law enforcement investigations of organised crime.

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

Montenegro continued to improve the existing legal and institutional framework for the protection of *human rights and protection of minorities*. The authorities, including at the highest level, showed a more positive attitude towards human rights. The completion of the relevant legislative and institutional framework need to continue, and the administrative and financial capacities in this field need to be strengthened, including those of the state prosecutor and of the Ombudsman.

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

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

Montenegro made progress in the *protection of minorities and cultural rights*. The adoption of the Strategy to improve the situation of the Roma, Ashkali and Egyptian population and the relevant Action Plan are positive developments to this end, but the inclusion of the Roma, Ashkali and Egyptians needs to be improved, in particular through the implementation of the relevant policy documents, as they still face discrimination. Progress in granting legal status to displaced persons has continued, but there are still gaps in access to economic and social rights for these people.

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

Significant progress has been made as regards the Sarajevo Declaration Process. Bosnia and Herzegovina, Croatia, Montenegro and Serbia continued to cooperate on finding sustainable solutions for the refugees who were displaced as a result of the armed conflicts in the 1990s. The four countries signed a ministerial declaration and agreed on a Regional Housing Programme assisting some 27,000 households or 74,000 individuals. At an international

donors' conference held in Sarajevo in April 2012 some €265 million was pledged in support of the programme. Good cooperation needs to continue on all outstanding issues in the process.

As regards the International Criminal Court, the bilateral immunity agreement with the United States does not comply with the EU common positions and guiding principles. Montenegro needs to align with the EU position.

After a moderate recovery in 2011, the **economy** of Montenegro decelerated in the first half of 2012. Domestic demand remains subdued due to weak credit growth and still large private sector debt overhang. In the absence of standard monetary policy tools<sup>1</sup> the economic policy has continued to be oriented towards reinforcing economic and financial stability through the pursuit of fiscal consolidation and structural reforms. However, contingent liabilities from state guarantees have become a significant risk for the stability of public finances. Unemployment remains high while shortcomings concerning the rule of law, human resources and infrastructure persist.

As regards the **economic criteria**, Montenegro has made some further progress towards a functioning market economy. However, the unfinished restructuring of the metal industry, widespread liquidity problems and weak labour market conditions still impede an efficient allocation of resources. The country should be able to cope with competitive pressures and market forces within the Union over the medium term, provided that it continues to address current weaknesses through appropriate macroeconomic policies and structural reforms.

Macroeconomic stability has been broadly maintained. The banking sector is still recovering, with deposits gradually flowing back into the system. Further improvements have been made in market entry procedures and bankruptcy recovery. The efficiency of civil enforcement of claims has improved. Liberalisation of telecom and energy industries has facilitated the opening of their respective markets and their regulators have become more assertive. Participation in EU research programmes has been more active. Montenegro remains highly integrated in the EU and CEFTA markets.

However, large external imbalances persist. Labour market performance remains weak with very high unemployment rates. Inflationary pressures have been increasing. The deleveraging of the financial sector continues, causing liquidity problems and the subsequent accumulation of tax and other payment arrears in the economy. The stability of public finances has been furthermore challenged by pressures arising from contingent liabilities and unpaid contributions. The public debt continued to increase. The difficult economic situation of the aluminium producer needs to be addressed. While the country needs to attract further investments to develop its infrastructures, weaknesses in the rule of law and a large informal sector continue to hamper the business environment.

Montenegro has made some progress in improving its **ability to take on the obligations of membership**. Good progress has been made in the areas of public procurement, transport policy, statistics and science and research. Progress has been limited in other areas such as free movement of workers, free movement of capital, company law, food safety, veterinary and phytosanitary policy, taxation, enterprise and industrial policy, environment and climate change, and financial and budgetary provisions. Montenegro's limited administrative capacity represents a challenge in a number of areas and needs to be strengthened in view of the accession negotiations and to ensure effective implementation of the *acquis*. Overall, Montenegro continued to smoothly implement the obligations under the Stabilisation and

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<sup>1</sup> Montenegro unilaterally uses the euro as the sole legal tender.

Association Agreement (SAA). Some gaps remain as regards State aids, where further efforts towards alignment are needed.

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

Little progress has been made in the field of *freedom of movement for workers*, where alignment with the *acquis* is still at an early stage. Some progress can be reported on the *right of establishment and freedom to provide services*. Montenegro made good progress towards aligning the new law on postal services with the *acquis*. On the right of establishment, legislative reforms need to be implemented. Considerable efforts are still needed regarding the alignment of legislation with the Services Directive, on mutual recognition of professional qualifications and as regards inter-institutional cooperation. Preparations in this area are moderately advanced.

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

Good progress has been achieved in the area of *public procurement*. Implementation of the new legislation remains a concern. The legislative framework for concessions remains to be aligned with the *acquis*. The role, powers and competences of the future inspection services need to be clarified and sufficient staff provided. Little progress can be reported in the field of *company law*. New amendments to the Law on accounting and auditing, establishing an independent public oversight body for auditors and a related quality control system, are yet to be adopted. Some progress can be reported on *intellectual property*. Further efforts are needed to align with the *acquis* in this area and to implement it effectively. Overall, preparations in each of these areas are moderately advanced.

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

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

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

Progress has been made in the area of *agriculture and rural development*. Efforts are needed to develop an appropriate legal framework to meet the objectives of the national action plan towards accreditation for the management of rural development funds. There has been limited progress in the area of *food safety, veterinary and phytosanitary policy*. Efforts are needed in all fields, in particular with regard to further alignment with the *acquis*, the reinforcement of

control capacity in the veterinary field, and the assessment of hygiene standards in food and feed establishments. Some progress has been made in the field of *fisheries*. Efforts are needed with regard to alignment of legislation with the fisheries *acquis* and implementation of EU standards, in particular in the areas of resource management, inspection and control, market policy, structural and State aid policy. Alignment with the *acquis* in each of these areas remains at an early stage.

There has been good progress in the area of *transport*, in particular as regards road, rail and maritime transport, but there is a need to ensure effective implementation of the *acquis*. Further progress remains to be made in the rail transport sector concerning inter-operability, setting up an accident investigation body, as well as the independence of the rail regulator. Overall, preparations in this area are advanced. Some progress can be reported in the area of *energy*. Additional implementing legislation for the internal energy market remains to be adopted. Montenegro still needs to adopt the necessary acts concerning oil stocks reserves, as well as the 10 year work programmes on development of renewable energy sources (RES). Alignment with the *acquis* is at an early stage in this area.

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

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

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

Little progress has been made in the area of *enterprise and industrial policy*. Various strategies and institutions exist. Further efforts are needed to ensure the development and the implementation of this policy.

Some progress has been achieved in the area of *Trans-European Networks*. As regards transport networks infrastructure, significant work remains to be done on improving road and rail links. Gas interconnections with neighbouring countries need to be developed and the national transmission systems upgraded. Overall, preparations in this area are still at an early stage. Some progress has been made in the area of *regional policy and coordination of structural instruments*, in particular with regard to the institutional framework and programming. Montenegro needs to strengthen administrative capacity in the established IPA

structures and adequately prepare them for the future. Overall, preparations in this area have started.

Montenegro has made some progress in the area of the *judiciary and fundamental rights*. Implementation of recently adopted legislation has started. Progress has been made with regard to the publication of court rulings and the case backlog. The constitutional reform aimed at strengthening judicial independence has not been completed yet. A single, country-wide recruitment system and a system to monitor the length of trials need to be set up, the court network rationalised and the reliability of judicial statistics improved. Further efforts are needed to ensure merit based appointments and career development, as well as to strengthen accountability and integrity safeguards within the judiciary. Montenegro has strengthened its anti-corruption legal framework and further developed its track record of investigations, prosecutions and convictions in corruption cases, but greater efforts are needed in this respect. Corruption remains widespread and continues to be a serious cause for concern, allowing also for the infiltration of organized crime groups into the public and private sectors. The number of final convictions remains low and there are still no corruption cases in which seizure or confiscation of assets were ordered.

The existing legal and institutional framework for the protection of fundamental rights has been further strengthened. The decriminalisation of defamation contributed to improving the media environment in the country. The process of granting legal status to the displaced persons has further advanced. Social inclusion of Roma, Ashkali and Egyptians has to continue, in particular through the implementation of the relevant policy documents. Shortcomings persist in the protection of human rights by judicial and law enforcement authorities. Efforts to investigate and prosecute old cases of violence against journalists need to be stepped up. Further sustained efforts will be needed to align with the EU *acquis* and international standards in this field. Overall, preparations in this area are moderately advanced.

Montenegro has made some progress in the area of *justice, freedom and security*. Alignment with the *acquis* in the field of migration, asylum and visa has started. The construction of the centre for foreigners and the one for asylum seekers is being finalised. Implementation of the integrated border management strategy and action plan is on track. In the area of police cooperation and the fight against organised crime, the country has continued to extend its international and regional network, and to reinforce its legal framework and administrative capacities. Joint investigative operations with other countries of the region, as well as with EU Member States, Interpol and Europol, resulted in an increase of the number of indictments, arrests and convictions in the field of organised crime. The policy and legal frameworks in this area have improved. Further sustained efforts will be needed to align with the *acquis* in this chapter, especially in the fields of asylum, visa, external borders and Schengen, the fight against organised crime, and to develop a solid track record of investigations, convictions and drugs seizures. The capacity to implement the legal framework in judicial cooperation in civil and criminal matters has to be reinforced. Increased efforts are required in the fight against money laundering and in addressing trafficking in human beings. The country is moderately advanced in this area.

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

training system need to be further addressed. Implementation of educational reforms remains a challenge. Overall, preparations are moderately advanced in this area.

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

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

Some progress has been made in the area of *external relations*. Montenegro has become member of the WTO. Some progress has also been made in the field of *foreign, security and defence policy*. Montenegro has aligned itself with all EU declarations and Council Decisions and has continued to actively contribute to regional stability. Preparations in these areas are moderately advanced.

Montenegro has made uneven progress in the field of *financial control*. While the legal framework for public internal financial control (PIFC) is in place, practical implementation is lagging behind, particularly at local level. Montenegro needs to strengthen managerial accountability arrangements in the context of the public administration reform. Financial independence of the State Audit Institution should be guaranteed in practice. Preparations in the area of financial control are at an early stage. Limited progress has been made as regards *financial and budgetary provisions*. In due course, a coordinating body needs to be set up to steer pre-accession preparations in the own resources field. The administrative framework for the application of the own resources rules needs to be established. Overall preparations are at an early stage in this area.