

Screening report

Montenegro

Chapter 22 – Regional policy and coordination of Structural Instruments

Date of screening meetings:

Explanatory meeting: 14-15 November 2012

Bilateral meeting: 18 December 2012

I. CHAPTER CONTENT

The *acquis* under this chapter consists mostly of framework and implementing regulations, which do not require transposition into national legislation. They define the rules for drawing up, approving and implementing the Structural Funds and the Cohesion Fund (Structural Instruments) programmes which will be reflected in each country's territorial organisation. These programmes are negotiated and agreed with the Commission, but implementation is the responsibility of the Member States.

A **legislative framework** has to be put in place allowing for multi-annual programming at national and regional level and budget flexibility, enabling co-financing capacity at national and local level and ensuring sound and efficient financial control and audit of interventions. Member States must respect EU legislation in general when selecting and implementing projects, in areas relating to regional policy and Structural Instruments such as public procurement, competition and environment, non-discrimination and equality between men and women.

Member States must set up an **institutional framework**. This includes designating and establishing all structures at national and regional level required by the regulations as well as setting up an implementation system with a clear definition of tasks and responsibilities of the bodies involved. The institutional framework also requires establishing an efficient mechanism for inter-ministerial coordination as well as the involvement and consultation of a wide partnership of organisations in the preparations and implementation of programmes.

Adequate **administrative capacity** has to be ensured in all relevant structures. This includes recruiting and training qualified and experienced staff and establishing measures to retain such staff. In this context, Member States need to make the necessary organisational arrangements, adapt procedures and organisation charts and prepare accompanying documents.

The **programming** process covers the preparation of a National Strategic Reference Framework (NSRF) and a series of operational programmes (OP) including ex-ante evaluations. Member States have to organise broad partnerships for the preparation of programming documents. They have to ensure that a sufficient pipeline of projects is established allowing for a full financial implementation of programmes. Member States will also have to carry out specific information and publicity measures with regard to the Structural Instruments.

Establishing a **monitoring and evaluation** system includes the setting up of evaluation structures and processes in different relevant bodies as well the installation of a comprehensive and computerised management information system (MIS) accessible and usable for all concerned bodies.

Member States must set up a specific framework for **financial management and control** including audit. This includes designating and establishing all structures required by the regulations as well as setting up an implementation system with a clear definition of tasks and responsibilities of the bodies involved.

II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

This part summarises the information provided by Montenegro and the discussion at the screening meetings.

Montenegro indicated that it accepts the *acquis* under this chapter and does not expect any difficulties in implementing the *acquis* by accession.

II.a. Legislative framework

Montenegro stated that its legislative framework is largely in line with EU policies and legislation most relevant for the implementation of EU Cohesion Policy, i.e. competition policy and state aid, public procurement, environmental policy and transport.

According to Montenegro, environmental legislation is largely defined in the Law on Environmental Impact Assessment (EIA) and is currently subject to a modification (adopted by the Government of Montenegro in June 2012). Modification of the Law on EIA together with the adoption of the Decree on the projects requiring an environmental impact assessment is foreseen for May 2013, and is expected to transpose the EU directives in the field of environmental impact assessment.

Montenegro stated that the legal framework regulating transport policy is partially in line with the *acquis*. Gender equality is guaranteed by the Constitution of Montenegro as well as by specific legislation.

Montenegro indicated that multi-annual budget programming is for the time being not provided for in Montenegro's national budget planning. The current legislation provides for budget planning on an annual basis. The law currently in force provides for planning of co-financing on an annual basis, but still allows for a certain degree of flexibility in the transfer of budgets of national co-financing to the coming year in case the available funds are not spent in the current year. National co-financing of EU assistance at the central level is secured by the state budget on an annual basis. At the local level, national co-financing is secured by the annual budget of each local government unit. It is also the responsibility of the Ministry of Finance of Montenegro to ensure co-financing of multi-annual programmes since this Ministry gives guidance and instructions on financial management of all the public funds and prepares the Annual Budget Law, which defines expenditure by beneficiaries, by type of expenditure, by programmes and also defines sources of funding for those expenditures.

Montenegro stated that it has assessed which adaptations are needed in the legislative framework to provide for both a national and local (sub-national) co-financing capacity for the Structural Funds and the Cohesion Fund. According to Montenegro, the draft Law on Budget and Fiscal responsibility, which lays down the provisions for medium term budget planning of a period of up to three years, is expected to be adopted by the Parliament during the fourth quarter of 2013. The new law will also provide for a control system of multi-annual contractual obligations and subsequently be complemented by secondary legislation.

According to specific legislation, local authorities have several sources of revenues: a) their own revenues from local taxes, fees and charges, b) taxes and charges assigned by the state to the local level, c) funds from the Equalisation Fund towards the financially weaker municipalities and d) grants from the state budget on a conditional basis. Montenegro stated that municipalities are autonomous in executing their budget and managing their own funds,

by determining the level of local taxes, fees and charges. Municipalities can co-finance EU funded projects without limits imposed on the level of participation. However, local authorities in Montenegro require authorisation from the Government of Montenegro in order to obtain loans.

Montenegro indicated that its legal framework on financial control is essentially regulated by the Law on the Public Internal Financial Control System and the Decree regarding the establishment of the public internal audit. This legislation contains the main concepts of managerial responsibility and accountability. It also defines which public bodies at national and sub-national level are required to establish functionally independent internal audit structures.

Montenegro stated that it is a single region. The basic form of local government is the municipality. There are no administratively defined regions. Montenegro has an agreement with the Commission that the country is defined as single statistical region at level 1, level 2 and level 3, which at the time of accession to EU would be transformed into a single Nomenclature of territorial units for statistics (NUTS) region at the NUTS 1, NUTS 2 and NUTS 3 levels, without prejudice to any changes on this agreement during the accession process.

Pursuant to the Law on Regional Development, the Ministry of Economy of Montenegro is in charge of coordinating the implementation of regional development policy.

II.b. Institutional framework

Montenegro stated that it has designated the management and implementation structures for the instrument of pre-accession assistance (IPA). The accreditation of the relevant structures is currently being conducted, and the accreditation package for Component III and IV was submitted to the Commission on 29 March 2013. The application packages for Component I and II were submitted in July 2012. Montenegro will benefit from IPA Components II (cross-border cooperation), III (regional development) and IV (human resources development), which constitute organisational and functional precursors of the Structural Instruments. According to Montenegro, the following management and implementation architecture has been defined at this stage:

- The key structures in decentralised management are the Competent Accrediting Officer (CAO), the National IPA Coordinator (NIPAC) and the National Authorising Officer (NAO). In addition, the Strategic Coordinator is responsible for the coordination of IPA components III and IV, the preparation of the Strategic Coherence Framework and the coordination of sectoral strategies and programmes. The National Decree on the organisation of the decentralised management of IPA, adopted by the Government of Montenegro on 23 June 2011 (OG MNE, No. 33/11) defines the IPA bodies per Operating Structures, for IPA Components II, III, IV, their functions and responsibilities.
- IPA Component II is organised at the level of Operating Structure, albeit composed of two separate bodies: a) the Body responsible for cross-border cooperation (CBC Body), situated at the Ministry of Foreign Affairs and European Integration of Montenegro, and b) the Central Finance and Contracting Unit (CFCU), acting as implementing body within the Ministry of Finance of Montenegro. The Operating Structure for IPA Component II-b is headed by the Head of Operating Structure

appointed at the Ministry of Foreign Affairs and European Integration. The management and implementation of IPA Components III and IV is organised at the level of Operating Structure per IPA component. The Operating Structures are a collection of bodies within the administration of Montenegro comprising: a) a Body responsible for the Operational programme (BROP), b) a Body responsible for priority/measure (BRPM) and c) an Implementing body (IB). An Internal audit function covers each Operating Structure.

- The Operating Structure for IPA Component III is developed on the basis of the priorities of the national strategies and the Operational Programme. The priorities identified for this component concern the areas of environmental protection and transport. Accordingly, the Operating Structure is composed of the following bodies: a) the Ministry of Sustainable Development and Tourism of Montenegro as BROP and BRPM in the domain of environmental protection, b) the Ministry of Transport and Maritime Affairs of Montenegro as BRPM in the domain of transport, and c) the Directorate of Public Works as Implementing Body.
- The Operating Structure for IPA Component IV is developed on the basis of the priorities in the Operational Programme for this component and is structured as follows: a) the Ministry of Labour and Social Welfare as a BROP and BRPM in the domain of labour market and social inclusion, b) the Ministry of Education as BRPM in the domain of education, c) the Ministry of Science as BRPM in the domain of research and innovation, and d) the Central Finance and Contracting Unit as Implementing Body.

Montenegro stated that it has not yet identified the institutions that will be responsible for carrying out the obligations under the Structural Instruments. Montenegro indicated that these structures will be based on the institutional framework developed for the implementation of IPA and will also take into account the content of the revised EU Cohesion Policy package for 2014-2020.

Coordination between IPA implementation structures is conducted through regularly established consultations, coordination meetings and monitoring activities. Inter-institutional coordination between the different layers of administration at national and sub-national level is provided by law.

II.c. Administrative capacity

Montenegro stated that it is aware of the administrative capacity required by EU Cohesion Policy. In this context, Montenegro intends to adjust the structures involved in the decentralised management of IPA as much as possible to the rules and procedures governing EU Cohesion Policy.

Currently, 170 officials are engaged in the system established for the implementation of IPA funds. 35 employees are dealing with IPA Component III and 44 employees with IPA Component IV. A Work Load Analysis (WLA) was conducted by the IPA structures to provide an estimation of the human resources needs with a plan to review human resources requirements on an annual basis. According to the WLA for 2013, currently 8 additional staff needs to be recruited in the Directorate for Public Works for component III. As for component IV, 3 additional staff needs to be recruited in the Ministry of Labour and Social Welfare and 7 staff in the Central Finance and Contracting Unit. According to Montenegro, the Audit

Authority will also be reinforced. Montenegro stated that it is aware of the importance of a sustainable staff retention policy that will ensure continuity of expertise in the IPA structures. In this context, Montenegro informed that financial and other forms of incentives have been considered, but not yet put into force.

Montenegro indicated that several projects aimed at providing training on the implementation of EU funds and mainly funded through IPA, have been implemented so far. Since 2006, IPA has contributed to preparing Montenegro for the decentralised management under all IPA Components with a total amount of EUR 7.7 million. Also, trainings covering all the stages of project management have been organised together with bilateral partners. Based on the figures provided, more than 130 training courses on the management of EU funds have taken place in the last four years and are conducted on a regular basis. Montenegro stated that 55 public officials have received relevant trainings.

According to Montenegro, the CFCU as the implementing body for IPA components I, II and IV will be assigned the task of organising trainings for the relevant bodies involved in the different aspects of the decentralised management of IPA funds. In addition, Montenegro plans to extend the function of the CFCU by rendering it the central training institution for structures which are currently involved in IPA and will become the implementing structures of the Structural Instruments in the future. For this purpose, the CFCU has already devised a training plan which covers the most important components of decentralised management.

As regards the capacity building on internal audit, Montenegro has appointed internal auditors in all state bodies at central level (with the exception of the Ministry of Justice) thus covering all operating structures. The Ministry of Finance of Montenegro initiated a certification programme for public sector internal auditors, with the assistance of expert organisations from EU Member States. Additional support on developing internal audit methodology and routine and training of internal auditors was provided through IPA. Support to internal audit capacities will also be offered under the IPA 2012 National Programme.

II.d. Programming

Montenegro indicated that it has prepared a wide range of national programming documents with either direct or indirect relevance for the implementation of the Structural Instruments. Montenegro has prepared the Strategic Coherence Framework (SCF) 2012-2013 which sets out the priorities for the Operational Programmes under IPA Components III and IV. The SCF was approved by the European Commission on 4 December 2012¹. The SCF is the precursor of the National Strategic Reference Framework under EU Cohesion Policy.

Montenegro stated that the National Development Plan (NDP) for the period 2013-2016 is under preparation and is expected to be adopted in the first quarter of 2013. The NDP will serve as an overarching document to include several sectoral policies aiming to promote medium-term investments and growth. Montenegro plans to integrate the NDP priorities into the IPA structures project cycle.

The OP Regional Development 2012-2013 has been prepared by the Montenegrin authorities and adopted by a Commission Decision in December 2012. It amounts to EUR 22.23 million

¹ The document was considered to meet the requirements of Article 154 of the Commission Regulation (EC) No 718/2007 implementing Council regulation (EC) No 1085/2006, establishing an instrument for pre-accession assistance.

and focuses on the following three priority axes: i) upgrading the environmental management systems ii) improving the transport system, promoting environmentally friendly transport modes with special emphasis on improving the rail infrastructure in order to provide better services and iii) technical assistance.

The OP Human Resources Development for 2012-2013 has also been prepared by the Montenegrin authorities and was adopted by a Commission Decision in October 2012. It amounts to EUR 5.58 million and focuses on the following four priority axes: i) efficient and inclusive active employment policy measures ii) enhancing skills, knowledge and competences for employability and competitiveness iii) enhancing social inclusion and iv) technical assistance.

Montenegro stated that the decision on which Ministry or body will be responsible for the programming of the Structural Instruments is still outstanding. Montenegro indicated that this will depend on the future organisational structures. However, Montenegro informed that it intends, where possible, to build on the IPA institutional structures and experiences, given that IPA mechanisms for components III and IV constitute organisational and functional equivalents to the Structural Instruments.

II.e. Monitoring and evaluation

Montenegro stated that it is gathering experience in monitoring and evaluating EU co-funded actions under the different IPA components, both at programme and project level. The Ministry of Foreign Affairs and European Integration of Montenegro is responsible for coordinating all monitoring activities. Montenegro stated that the monitoring system used for the implementation of IPA will constitute the basis for establishing the monitoring mechanisms under the Structural Instruments.

The evaluation functions are organised in a similar manner for all IPA components and are under the direct responsibility of the different institutions in charge of the respective components. External evaluation capacity is planned to be used in order to complement the existing evaluation capacity in the Montenegrin administration. Montenegro acknowledged that there are still improvements to be made in order to increase the evaluation and monitoring capacity of the involved structures.

The Ministry of Finance has developed a so-called Project Information System (PIS) as monitoring and evaluation system. Through this system all financial data and reporting related to IPA funds is recorded and processed in electronic format. The PIS will serve as the basis for the future Management Information System (MIS). Montenegro stated that the PIS has been created in accordance with the monitoring and reporting standard requirements under IPA.

II.f. Financial management and control

Montenegro stated that its financial management and control system is determined by the requirements of the pre-accession instruments. In this context, Montenegro has established an operational framework for financial management and control (including audit) under IPA. The standards and procedures related to financial management and the internal control process are provided for by national legislation.

Montenegro indicated that the NAO is responsible for certifying the legality and regularity of transactions before submitting payment requests to the Commission. The future Certifying Authority (CA) has not yet been identified.

Each body dealing with the management of IPA is required to have an internal audit function. A second level of independent audit function is performed by the Audit Authority. Montenegro indicated that after accession the internal audit function within the future Managing Authorities will continue to be ensured. The Audit Authority will retain the same role and responsibilities it currently has. Montenegro stated that proper financial management and control systems will be in place for the implementation of the Structural Instruments.

III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY

Overall, Montenegro is partially aligned with the *acquis* in the fields covered by this chapter. By Montenegro's accession to the EU, the application and enforcement of the *acquis* on regional policy and coordination of Structural Instruments will need to be fully ensured. Montenegro's participation in IPA Components II, III and IV has contributed to the development of implementation structures and mechanisms that could serve as a solid basis for the future responsibilities under EU Cohesion Policy.

Montenegro is at an early stage of preparations as regards the implementation of EU Cohesion Policy. Specific gaps remain to be addressed in relation to the establishment of the institutional and administrative capacity and with regard to the definition of the implementation systems.

Montenegro needs to designate appropriate institutional structures and systems in compliance with the regulatory framework governing the implementation of the Structural Instruments and to build up and maintain an adequate administrative capacity. Montenegro needs to establish a computerized Management Information System (MIS) accessible by a wide range of users and build up sufficient evaluation and audit capacity. It also needs to set up an efficient financial management and control system for the implementation of the Structural Instruments.

III.a. Legislative framework

Montenegro is already at a satisfactory stage of alignment with the relevant EU legislation and policies in areas that are a prerequisite for the proper implementation of EU Cohesion Policy. It still needs to further enhance legislative alignment in some areas of state aid, public procurement, environmental protection and transport in order to ensure full harmonisation with the *acquis*. Legislation to address the shortcomings in the above areas is currently under preparation.

Montenegro's budget planning system currently only allows for annual planning. In this context, Montenegro needs to adopt a legislative framework providing for multi-annual budget planning.

The co-financing of projects at national level is currently only provided for by the state budget. Co-financing from sources other than the state remains rather limited. The local authorities can draw their revenues from multiple sources and they are autonomous in executing their own budgets. However, they have limited borrowing capacity and depend

upon prior consent of the central government, which makes the co-financing capacity at the local level challenging. A mechanism needs to be established to ensure a financially sound basis for investments and sufficient authority for project delivery, potentially across municipality boundaries.

III.b. Institutional framework

Montenegro has designated structures for the implementation of the IPA instrument, notably with regard to the management of the two Operational Programmes prefiguring the Structural Instruments. Montenegro has indicated that the IPA architecture will constitute the basis for establishing the future Structural Instruments implementation system. Montenegro needs to pay attention to rapidly ensure a full integration and transfer of responsibilities of relevant functions to line ministries. These need to gradually obtain full responsibility and ownership of policy planning and preparation.

Montenegro has not yet formally designated the implementation structures for Structural Instruments. Managing Authorities will have to be identified. Montenegro has identified the future Audit Authority, but it has not yet identified the future Certifying Authority.

Considering the complexity of functions which future Structural Instruments will require, Montenegro should take the necessary steps to ensure that a coherent structure of coordination is established. At the same time, the functional independence of the structure as a whole needs to be ensured in particular as it relates to the future managing and certifying authorities and their respective responsibilities. In particular, this coordination structure should support the Managing Authorities in fully discharging their responsibilities and decision-making capacity to manage and implement the relevant programmes under their control.

At a wider level, and within the framework of increasing transparency and accountability in the management of the Structural Instruments, the coordination structure needs to ensure coherence between macro-economic policy objectives on the one hand and co-financing needs and objectives as required by the Structural Instruments on the other.

In addition to a co-ordinating structure, appropriate inter-ministerial coordination, which is currently provided for by Montenegro's legislation, needs to be ensured also in the context of implementing EU Cohesion Policy.

III.c. Administrative capacity

Overall, experience with multi-annual programming and management of EU-funded projects, as well as the number of staff involved in IPA implementation is currently limited.

However, Montenegro has devised a strategy for capacity building in the context of management and implementation of IPA. Montenegro has also carried out a number of trainings on the management of EU funds under the IPA instrument, including in relation to external and internal audit functions. Nevertheless, training activities should intensify and cover all the officials currently involved in IPA. Increased importance should be placed on strengthening the evaluation capacity of the public administration and the audit functions. Appropriate training of local authorities, especially those involved in implementing IPA programmes, is also required.

Given that some of the implementation structures (e.g. Managing Authorities and Certifying Authority) have yet to be identified, capacity building currently provided or planned to be

provided is necessarily generic and targets the various stakeholder groups to improve the general awareness and understanding of the principles, practices and responsibilities that are required for the delivery of the Structural Instruments.

Montenegro needs to ensure continuity and stability of the human resources who benefit, or will benefit, from capacity building measures. A sound staff retention policy targeting those officials who will progressively gain expertise in the management and implementation of EU funds needs to be ensured. In this context, Montenegro needs to apply an efficient and attractive career planning and salary policy for civil servants across all bodies involved in IPA.

III.d. Programming

Montenegro has produced a number of policy and programming documents notably at national level, the most relevant of which encompass the priorities of IPA Components III and IV.

Montenegro has prepared the Strategic Coherence Framework which sets out the priorities for IPA components III and IV, and has also elaborated the Operational Programmes for the respective components.

There is an established mechanism to ensure that those strategies endorsed by the Government of Montenegro will correspond to specific budget lines.

The available experience in project development is limited and needs to be further enhanced in order to satisfy the requirements under EU Cohesion Policy. Montenegro will have to mobilise adequate resources to prepare a comprehensive and good quality project pipeline for implementation under future Structural Instruments (including the preparation of accompanying technical studies and financial analyses), which respects requirements from all other areas relevant to EU Cohesion Policy, in particular environmental protection, public procurement as well as competition policy and state aid.

Montenegro needs to identify which bodies will be responsible for carrying out the programming tasks under the future Structural Instruments.

III.e. Monitoring and evaluation

Montenegro has developed structures and gained some experience in monitoring and evaluation, both within Ministries and other institutions involved in IPA. It disposes of some operational systems of monitoring and evaluation of EU programmes as well as an accounting and management information system.

However, in relation to the implementation of EU Cohesion Policy, Montenegro will need to mobilise adequate human and financial resources for the proper establishment of a monitoring and evaluation system. This will include the setting up of an integrated management information system which not only combines physical and financial monitoring, but also allows access and contribution to the data collection and entry of a broad group of bodies involved in the implementation of operations and final beneficiaries. It further needs to enable the linking up of electronic accounting systems with the management information system. In addition, the evaluation capacities of the staff will need to be strengthened.

Montenegro needs to build on existing capacities and experiences and prepare an overall monitoring and evaluation strategy in order to define which bodies will deal with these functions under the future Structural Instruments.

III.f. Financial management and control

Montenegro is in the process of establishing a solid framework for financial management and control (including audit) for all state expenditure. It is limited, however, in terms of instruments relevant to EU Cohesion Policy.

Montenegro needs to define its financial management and control system (including internal and external audit) for the Structural Instruments and pay due attention to the separation of functions and the independence of key bodies such as the Certifying Authority and the Audit Authority.