

Conclusions on Montenegro

(extract from the Communication from the Commission to the Council and the European Parliament "Enlargement Strategy and Main Challenges 2009-2010", COM(2009)533 final)

Montenegro has continued to make progress in addressing the **political criteria**. In line with the European Partnership, it further pursued the completion of its legal framework and strengthened administrative and institutional capacity. The constitution was on the whole implemented effectively. Judicial reform continued and started to produce results. Yet political influence on the judiciary and the prosecution persists. The fight against corruption and organised crime needs to be pursued with determination. Strengthening of administrative capacity remains a major challenge. Political consensus on EU-related issues remains strong. Parliament's capacity to scrutinise legislation and monitor the implementation of reforms needs to be enhanced.

Democracy and the rule of law continued to be strengthened. Overall, the implementation of the constitution proceeded well. However, some key laws remain to be aligned with it. The functioning of state institutions has improved in particular in the areas related to European integration. The need for greater political will in the fight against corruption, in particular high-level corruption, remains.

There has been some progress in the functioning of the *parliament*. Legislative activity continued to be intense and its administrative capacity was strengthened. However, parliament needs to substantially enhance its efficiency as a legislative body and its capacities of oversight. Parliamentary elections held in March 2009 met almost all OSCE and Council of Europe commitments. However, OSCE-ODIHR identified a number of challenges and shortcomings which remain to be addressed. Electoral legislation needs to be aligned with the constitution.

The *government* continued to set up new administrative structures following the country's independence. The framework for coordination of European integration improved and continued to function smoothly. Some progress has been made in reforms of the *public administration* through the adoption of key legislation, upgrading of administrative capacity and improved human resources management. However, lack of human and financial resources, along with structural weaknesses and corruption continue to hamper the overall effectiveness of the public administration. Administrative capacity remains limited. Significant efforts are required to establish a professional, accountable and merit-based civil service, free of political interference. Most of the opinions and recommendations issued by the Ombudsman's office have been followed up. However, the Law on the Ombudsman remains to be fully aligned with the constitution and the office's capacities require further strengthening.

Greater efforts are needed to establish and empower independent, supervisory and regulatory bodies that operate effectively.

Montenegro has made moderate progress in *judicial reform*. The legal framework was further strengthened by the adoption of a new Criminal Procedure Code. However, further efforts are required to ensure the independence of the judiciary and the autonomy of the prosecution. The capacity of the prosecution to undertake its new tasks under the Criminal Procedure Code must be enhanced. Further consolidation of the accountability, integrity and efficiency within the judicial system is required.

There has been good progress in building the legal and administrative framework for *the fight against corruption*. Progress has been made on further enhancing preventive and investigative

anti-corruption bodies. However, corruption remains prevalent in many areas and continues to be a particularly serious problem. There are concerns over the comprehensiveness and effective implementation of legislation in this area. While there is a positive trend, investigation capacities and co-ordination of law-enforcement agencies are weak, resulting in low numbers of convictions. There is insufficient supervision in the areas of financing of political parties and conflict of interests.

There has been further progress in the area of *human rights and protection of minorities*, where Montenegro is broadly in line with European standards.

Overall, there has been some progress in the area of *civil and political rights*. However, further efforts are required to improve implementation of laws in the areas of *torture and ill-treatment*, the *prison system* and *access to justice*.

Freedom of expression remains a concern. Investigations of violence against journalists marked progress. However, new incidents have been reported. Intimidating statements by state officials on the role of media and NGOs are a cause of concern. The government needs to engage constructively with civil society representatives. The respect of *freedom of assembly and religion* remains overall satisfactory. However, restitution of church property remains to be addressed and state bodies should remain impartial in relation to disputes between the Serbian and Montenegrin Orthodox churches in Montenegro.

Sustained efforts are needed in the area of *women's rights*, particularly related to the insufficient protection of women against all forms of violence, as domestic violence remains widespread. Key legislation such as a law on the protection from violence in the family remains to be adopted. Major legislation such as an anti-discrimination law has not yet been adopted. Determined efforts to proceed with the implementation of legislation and strategies on improving *children's rights* and socially vulnerable groups are required. Regarding *property rights*, there have been fewer complaints concerning property rights in 2008. However, concerns persist over the implementation of restitution legislation.

Montenegro made some progress with implementing the framework for *minority protection*. Minority Councils became operational and were allocated funding. Some steps have been taken to improve the situation of the *Roma*, Ashkali and Egyptian (RAE) communities. Inter-ethnic relations continue to be smooth. However, the social and economic situation of displaced persons and the RAE population remains a matter of serious concern. They continue to face very difficult living conditions and discrimination. Implementation of legislation and strategies must be pursued with more determination. Increased financial resources are also required. The Law on Minority Rights and Freedoms has not yet been harmonised with the Constitution regarding minority representation.

Regarding *displaced persons* from Bosnia and Herzegovina and Croatia, a legal framework to address their status has been put into place but its effective implementation still needs to be ensured. Montenegro must resolve the status of displaced persons from Kosovo and work on improving their access to economic and social rights, which remains limited. Their situation continues to be a cause for concern.

Regarding *regional issues and international obligations*, cooperation of Montenegro with the International Criminal Tribunal for the former Yugoslavia (ICTY) is satisfactory. Investigation and court proceedings in Montenegro's limited number of domestic war crimes' cases have made headway. Cooperation with neighbouring countries in this field has improved. The case of the survivors and families of deported Bosnian civilians in 1992 was settled out of court.

As regards the International Criminal Court, the bilateral immunity agreement with the United States does not comply with the relevant EU Common Positions and guiding principles. The country needs to align with the EU position.

Montenegro has continued to participate actively in regional cooperation initiatives, including the South East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC) and the Central European Free Trade Agreement (CEFTA). Montenegro holds the chairmanship of CEFTA during 2009. The Regional School for Public Administration (ReSPA) in Danilovgrad near Podgorica has become operational.

Relations with other enlargement countries and neighbouring Member States have continued to improve and bilateral cooperation in specific fields has intensified. In particular, progress has been achieved towards settling bilateral border issues between Montenegro and Croatia, who have been co-operating on preparing their submission to the International Court of Justice on the Prevlaka border issue.

The **economy** of Montenegro decelerated markedly in 2009. As a result, public finances came under severe pressure and public debt further expanded. However, the economy did not slip into a deep recession, and the external financing risks did not fully materialise. Despite the economic crisis, the government pushed forward a series of structural reforms. Enhancing the rule of law and upgrading infrastructures remain key challenges for economic development.

As regards the **economic criteria**, the country has made further progress towards establishing a functioning market economy. In order to enable it to cope in the medium term with competitive pressure and market forces within the Union, it should continue comprehensive reforms to reduce structural weaknesses.

External imbalances and inflation were reduced as a result of the deceleration of economic activity. Labour market indicators continued to improve, despite the slow down in growth. Foreign parent banks sustained financing to their local subsidiaries, thus supporting the stability of the financial system in the absence of a lender of last resort. The budget deficit was reduced by curtailing spending and by receipts from the privatisation of large network systems. Public debt grew, but remained at moderate levels. Legislation to enhance certainty about property rights has been adopted. Legislative simplification proceeded in view of removing business barriers and the backlog in bankruptcy cases decreased. The state's role in the economy increased, in response to the unfolding crisis, but it was limited to providing loans and loan guarantees for key sectors of the economy.

However, conditions for Montenegro's manufacturing sector deteriorated sharply, as it was hit by contracting external demand and by falling international prices for steel and aluminium. Restructuring of the aluminium and steel plants remain a considerable challenge. The financial system suffered a severe liquidity crunch at the end of 2008 and early 2009 as a result of large deposits withdrawals. Interest rates remained high despite liquidity injections in the banking system. Public finances came under severe pressure while government guarantees on loans piled up. The capital markets went through a severe correction, suffering substantial losses. A mismatch persists between labour supply and demand, forcing employers to resort to foreign workers even though unemployment is high. The informal sector remains an important challenge.

Montenegro made further progress in aligning with **European standards**. The Interim Agreement continued to be smoothly implemented and the country's track-record in implementing its obligations under the SAA is being built. Good progress was achieved in consumer protection and research and in some areas of internal market and justice, freedom and security. Some progress was achieved in free movement of capital, customs and taxation, employment, agriculture and rural development, energy, statistics and in remaining areas under justice, freedom and security. Further sustained efforts are needed in these fields. Particular efforts are needed to improve implementation capacity. Progress in environment, transport, information society and media has been uneven. Limited progress can be reported in accreditation and conformity assessment, metrology, market surveillance and industrial policy.

As regards the *internal market*, Montenegro has made some progress in addressing related European Partnership priorities. Preparations in the area of *free movement of goods* continued. Good progress was achieved in consumer protection implementation. Market surveillance needs further development. Improvement of institutional and administrative capacities, inter-institutional cooperation and transposition of product-specific *acquis* is needed.

In the areas of *free movement of persons, services and right of establishment*, Montenegro partially meets alignment priorities. The Law on Employment and Work of Foreigners was adopted, foreseeing work permits and quotas for labour force and cross-border services. The liberalisation of the services market further advanced. The institutional framework for the supervision of the banking and non-banking financial sector continued to improve but further strengthening is needed. A strategy for the postal services sector has been adopted. New rules for business reporting and supervision requirements increased accounting transparency and auditing effectiveness. However, further efforts to consolidate progress are needed in these areas.

Progress in the area of *free movement of capital* was achieved by the adoption of the Law on Property Relations and the Law on State Property. Equal treatment is not yet granted to foreigners as regards the purchase of agricultural land, for which the new law provides the option of long-term leasing.

The alignment of *customs and taxation legislation* with the *acquis* is on track. However, further alignment is needed in the areas of origin, transit and simplified procedures, customs valuation and fees. The fight against corruption and tackling the informal economy remain major challenges.

In the area of *competition*, alignment with the *acquis* continued. Further strengthening of the competition framework and upgrading of administrative capacities are required, especially with reference to state aid control.

In the area of *public procurement* Montenegro continued to align its legislation with the *acquis*. Training and awareness-raising activities were carried out. However, further alignment of legislation and strengthening of administrative capacity are needed.

Some progress can be reported in the area of *intellectual property rights*. The new Law on Patents strengthened the legislative framework. The procedure of recognition of rights at national level was improved. However, preparations are at an early stage, and institutional and enforcement capacity and public awareness need further development.

Montenegro continued to make progress in the area of *social policies and employment*. However, legislation still needs to be further aligned towards European standards and the administrative capacity in the area of social policies and employment, in particular to effectively implement new legislation needs to be enhanced. Further efforts are also required to strengthen administrative and institutional capacity in the area of *public health policy*.

Further progress has been made in the areas of *education and culture*. There has been good progress on *research*, particularly on strengthening the institutional framework and through participation in the Seventh Framework Programme for Research and Development.

Montenegro adopted the necessary legislation with a view to acceding to the World Trade Organisation.

As regard *sectoral policies*, in the area of *industrial policy* Montenegro has started to address alignment priorities while it partially meets them as regards *SMEs policy*. Further effort is required to remove existing business barriers, speeding up licences and permits, and to fully implement measures, such as SME credit guarantees, incubators and clusters.

Some progress can be reported in the area of *agriculture and rural development*, as well as *fisheries*, as regards the reform of legislation and the adoption of national programmes and strategies. However, implementation needs to be enhanced. As regards *food safety, veterinary and phytosanitary policy*, there has been some progress mainly on strengthening the

legislative framework, however an integrated food safety system is yet to be established. Progress on strengthening the administrative capacity of the Ministry for Agriculture, Forestry and Water Management remains limited and needs upgrading also in view of its preparation for IPARD.

Progress in the area of *environment* remains uneven. While progress can be reported on adoption of horizontal legislation, implementation and enforcement need to be further strengthened. The Environmental Protection Agency needs to be equipped with the necessary resources to perform its functions. Insufficient environmental protection, especially in coastal areas and national parks, remains a cause for concern.

As for *transport policy*, preparations are moderately advanced in road and railway but still at an early stage in air and maritime transport. Progress on safety aspects of all transport modes has been limited. Montenegro should develop a coherent strategy for the development of its transport sector. Considerable efforts are required to establish adequate administrative capacity.

Some progress can be reported in some *energy* sectors. There have been steps towards meeting the requirements of the Energy Community Treaty, but further efforts are needed. The promotion of energy efficiency and renewable energy resources need to be prioritised.

Some progress has been made on *information society and media* with the agency for electronic communications and postal services becoming operational. However, concerns remain on the independence of the Electronic Communications Agency and delays in the implementation of the Law on Electronic Communications. The relevant Montenegrin authorities need to urgently address and resolve the issue of the competence and procedure for the allocation of broadcasting frequencies. Legislation and practice need to be brought in line with European standards in this area.

Montenegro's preparations in *Public Internal Financial Control (PIFC) and external audit* are at an early stage of implementation. Basic legislation on PIFC has now been adopted. Qualified state auditors and audits are increasing and the State Audit Institution is developing its administrative capacities.

The 2009-2012 government strategy for *statistics* gives the statistical office of Montenegro the coordinating role for developing the statistical system in compliance with the European Statistics Code of Practice. Progress was made in sector and macroeconomic statistics, while it was limited for classifications and registers. Legislative framework and administrative capacity need further improvement.

In the area of *justice, freedom and security*, Montenegro has continued to address key challenges. However, sustained efforts to carry through implementation of reforms are required. Regarding visa liberalisation, Montenegro has made significant efforts in all areas included in the roadmap. On the basis of the progress achieved, the Commission proposed in July 2009 lifting the visa obligation for Montenegrin citizens, on condition that Montenegro meets the outstanding roadmap benchmarks before the Council takes its decision.

Some progress has been made in the area of *visa policy*. Implementation of the visa facilitation and readmission agreements has proceeded. A new Law on Foreigners and a new Visa Regulation based on the Schengen rules have entered into force. However, Montenegro should make further efforts to improve its own visa regime and to bring it in line with European standards. Its administrative and technical capacities for issuing visas need to be substantially reinforced.

Regarding *border management*, Montenegro has made good progress in the area of border control. It has continued to implement its integrated border management strategy. Some improvement has been noted in terms of equipment at border crossing points. However, new legislation on state border control, including border surveillance, remains to be adopted.

Linking all border crossing points into an online network with access to the national and Interpol database needs to be addressed as a priority.

Some progress can be reported in the areas of *asylum* and *migration*. In the field of *asylum* the legislative and institutional framework is almost complete. However, proper implementation of legislation must be ensured. In the area of *migration*, key legislation has been adopted. A detention centre for illegal migrants is still to be constructed. Further efforts are required to implement legislation. Administrative capacity and institutional co-operation need to be enhanced. The status of displaced persons must be addressed.

Montenegro continued to make some progress in the area of *money laundering*, however the reduction in the number of investigations and suspicious transaction reports is of concern. Determined efforts are required to enhance the competencies and investigative capacities of the authorities, in particular of the financial intelligence unit. Money laundering remains a serious cause for concern and further efforts are needed to prevent and combat it.

Montenegro has made some progress in *anti-drugs policy*. The national strategic response to narcotics and the associated action plan are being implemented. The institutional framework for fighting drug crime has been strengthened and seizure levels have increased. However, drug trafficking by organised crime groups remains a matter of serious concern. Montenegro needs to intensify its efforts in the area of anti-drugs policy.

Some progress can be noted in the area of policing, through the continuation of *police* reform and the establishment of a track record in the area of internal control. However, professional capacity, equipment and infrastructure need to be further improved.

The institutional, legal and administrative capacity to *fight against organised crime* has been strengthened. However, organised crime remains a matter of serious concern which affects the rule of law and business environment. Investigation and prosecution capacities remain insufficient, resulting in rare final convictions in cases of organised crime. Enhancing human resources and strengthening inter-agency cooperation must be addressed as a priority. There has been good progress in the fight against *trafficking of human beings*. Montenegro continues to be used primarily as a transit country. Investigations of cases concerning trafficking in human beings have been conducted and convictions have been passed. Further measures are necessary to enhance the capacity of the responsible authorities to identify potential victims.

Some progress in the area of personal *data protection* was achieved with the adoption of the legal framework. However, the law is not fully in line with the *acquis* and the supervisory authority has not yet been established.