

6 February 2014

# Screening report

# Montenegro

## Chapter 19 – Social policy and employment

**Date of screening meetings:**

Explanatory meeting: 23–25 January 2013

Bilateral meeting: 11–13 March 2013

## I. CHAPTER CONTENT

On the basis of Article 153 of the Treaty on the Functioning of the European Union (TFEU), the Union supports and complements the activities of the Member States in the area of social policy.

The *acquis* in the social policy field includes minimum standards in areas such as labour law, equal treatment of women and men in employment and social security, as well as health and safety at work. Specific binding rules have also been developed with respect to non-discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 19 of TFEU).

The European Social Fund (ESF) is the main financial tool through which the EU supports the implementation of its Employment Strategy and contributes to social inclusion efforts (implementation rules are covered under Chapter 22 “Regional policy and coordination of structural instruments” which deals with all structural instruments).

The Member States participate in EU policy processes in the areas of employment policy, social inclusion and social protection. The social partners from the Member States participate in social dialogue at the European level.

In the field of disability, the EU has adopted a strategy aimed at mainstreaming disability issues into relevant Union policies and at enhancing the integration of people with disabilities.

International agreements related to employment, labour and social issues, such as the relevant ILO Conventions or the UN Convention on the Rights of People with disabilities, need to be taken into consideration.

In relation to chapter 23 “Judiciary and Fundamental Rights”, it should be noted that trade union rights are essentially covered by chapter 19. As regards anti-discrimination and equal opportunities, these issues are essentially covered by chapter 19 with a specific focus on employment aspects, whereas chapter 23 covers cultural and minority rights as well as violence against women.

## II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

This part summarises both the information provided by Montenegro and the discussion at the screening meeting. Montenegro indicated that it can accept the *acquis* regarding social policy and employment and that it does not expect any difficulties to implement the *acquis* by the date of accession.

### II.a. Labour law

Montenegro stated that provisions in this area are regulated by the Labour Law adopted in 2008, last amended in December 2011. New amendments are currently in the parliamentary procedure, aiming at regulating the rights of employees in the case of a bankruptcy. Also the General Collective Agreement guarantees minimum legal protection to the employee.

As regards working time, the Labour Law applies to both public and private sectors, except for the employment of workers in public administration which is prescribed by the Law on Civil Servants and State Employees. Full working time equals 40 hours per working week; part-time work is minimum  $\frac{1}{4}$  of full-time working hours; shorter working hours (due to

harder working conditions) are up to 36 hours a week. Daily breaks and daily rest are regulated, as required by the *acquis*. Daily breaks must last at least 30 minutes (for full-time employees), daily rest at least 12 consecutive hours and weekly rest at least 24 consecutive hours (used on Sunday, as a rule). Annual leave is at least 20 working days in a calendar year.<sup>1</sup>

Montenegro indicated that working hours for workers engaged in interoperable cross-border traffic in the railway sector are regulated by the Law on Safety, Organisation and Efficiency of the Railway Transport; it entered into force in January 2014. According to Montenegro, working hours for mobile workers in civil aviation are regulated in an accompanying Rulebook to the Law on Air Transport adopted in 2012. Montenegro indicated that working hours for seafarers and workers on board fishing vessels are regulated by the Law on Safety of Maritime Navigation; it was adopted by the Parliament in December 2013 and is foreseen to be completed by accompanying by-laws by 2015.

As regards working conditions (other than working time), Montenegro stated that employment is established by a written labour contract which is usually concluded for an indefinite period. As an exception, fixed-term contracts may be concluded where there is an objective reason. One or more successive fixed-term contracts cannot be concluded with the same employee for a period longer than 24 months (continuously or with interruptions). However, an employer may deviate from this rule if it is necessary for the purpose of substituting a temporary employee, for seasonal jobs or work on a specific project. Labour contracts may be concluded for full time or part-time work. There is a general prohibition to employ a person younger than 15, as required by the *acquis*. Overtime work and night work are prohibited for minors, except in cases of *force majeure*. Annual leave for minors is at least 24 working days and weekly rest period is two consecutive days, one of which has to be Sunday. Temporary agency work is regulated in Montenegro according to the information presented by Montenegro. Eight Agencies for Temporary Assignment of Employees are in place for this purpose.

Montenegro indicated that there is currently no Montenegrin legislation aligning with the *acquis* on posting of workers. This is foreseen to be remedied through the Law on Foreigners.

Montenegro indicated that legislation has been adopted with regard to information and consultation of workers, notably in the cases of collective redundancies and transfers of undertakings. Employees' rights remain the same in the event of the termination of a labour contract individually and termination in collective dismissal. There are three categories of employees that cannot be made redundant: single parents, parents of children with disabilities and parents exercising the right to parental leave. In the case of transfer of undertakings the new employer needs to assume all obligations arising from the employment contracts of the transferred workers. As regards employer's insolvency, a Labour Fund was set up in 2010 to serve as the Guarantee Fund required by the *acquis*.

There is no Montenegrin legislation regulating either the establishment of European works councils nor the involvement of workers in European companies and European cooperative societies.

As regards administrative capacity, the main administrative body is the Ministry of Labour and Social Welfare (MLSW) and its Department for Labour Relations. In the Administration

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<sup>1</sup> Directive 2003/88/EC concerning certain aspects of the organisation of the working time provides for a paid annual leave of at least four weeks.

for Inspection Affairs, Department for Labour Inspection, established in 2012 25 out of 35 labour inspectors are in charge of supervision of labour relations. The Administration for Inspection Affairs has 15 offices throughout Montenegro. There are no specialised labour courts in Montenegro. A Law on Peaceful Settlement of Labour Disputes adopted in 2007 prescribes the manner and procedure for the alternative resolution of collective and individual industrial disputes and the appointment of conciliators and mediators. Also an Agency for Peaceful Settlement of Labour Disputes is in place.

## **II.b. Health and safety at work**

Montenegro stated that this area is regulated by a Law on Safety and Health at Work adopted in December 2004, subsequently amended in April 2010, as well as 41 Regulations (by-laws, Ordinances). According to Montenegro, the Law covers both public and private sectors and contains preventive measures for enabling safety at the workplace. Montenegro also stated that, further to this Law, the employer is responsible for the organisation and implementation of safety at work measures in all situations and notably, that a risk assessment needs to be adopted for determining *inter alia* the way and measures to remove risks, as required by the *acquis*. Moreover, Montenegro indicated that training in the area of health and safety at work as well as medical check-ups of employees is provided for by the Law. Also, according to Montenegro, trade unions have the right to participate in discussions on all matters related to health and safety at work. Finally, Montenegro stated that representatives of employees can also form a board of employees for safety at the workplace which must include at least one representative of the employer.

Montenegro stated that the Law on Safety and Health at Work is currently under revision and foreseen to be amended by mid-2014. Montenegro also indicated that a major overhaul of all the legislation related to health and safety at work is ongoing in order to align with the *acquis* in this area. 23 by-laws are foreseen to be successively adopted over a period of three years after the adoption by the Parliament of the Law on Safety and Health at Work. In relation to minimum requirements for work on board fishing vessels, Montenegro indicated that these are regulated in the Law on Safety of Maritime Navigation; it was adopted by the Parliament in December 2013 and is foreseen to be completed by accompanying by-laws by 2015.

Also, Montenegro indicated that a Strategy for Improvement of Health of Employees and Safety at Work in Montenegro 2010–2014 was adopted by the Government in November 2010 accompanied by an Action plan for its implementation. According to Montenegro, a new strategy for 2013–2020 is currently under preparation in line with the EU Strategy on Health and Safety at Work. Montenegro indicated that the highest risk sector in this area is the construction sector.

As regards administrative capacity, a Department for Safety at Work has been established in the MLSW. Montenegro stated that in the Administration for Inspection Affairs, Department for Labour Inspection, nine labour inspectors out of 35 inspectors are in charge of supervision of safety at work. Plans exist for increasing the number of labour inspectors in this area, especially for the municipalities of Bar and Ulcinj. Funding is foreseen to be provided for an IT system for Labour Inspection. According to Montenegro, labour inspectors have also been trained in some areas of the *acquis* in the past. Other institutions responsible for health and safety at work are the Ministry of Health, the Ministry of Economy, the Ministry of Sustainable Development and Tourism and the Ministry of Transport and Maritime Affairs.

## **II.c. Social dialogue**

Social dialogue takes place mainly at tripartite level in the framework of the Social Council (SC). The SC was established in June 2008 as a consultative body with the task of monitoring, encouraging and analysing social and economic activities in Montenegro. It comprises 11 representatives of the Government and 11 representatives of workers and employers' associations, respectively, and works with seven commissions covering different socio-economic areas. Amendments to the 2007 Law on Social Council were adopted by the Government in December 2013 and entered into force in January 2014 in view of establishing the SC Secretariat. Budget has been provided for development of the technical and administrative capacities of the SC secretariat.

Montenegro indicated that the General Collective Agreement expired at the end of 2011; negotiations on a new general tripartite collective agreement are in the final phase. 19 branch collective agreements have been concluded over the years.

Amendments to the Law on trade union representation were adopted in July 2013 to increase transparency of trade union pluralism. On the basis of this Law, as of 31 October 2013, 1 655 trade union organisations and 470 representative trade union organisations were registered in Montenegro.

The most prominent trade union organisations are the Confederation of Trade Unions of Montenegro (CTUM) and the Union of Free Trade Unions of Montenegro (UFTUM), which split from CTUM in 2008. CTUM is a member of the International Trade Union Confederation (ITUC) and an observer in the European Trade Union Confederation (ETUC).

Employers in Montenegro are represented by the Montenegrin Employers Federation (MEF), a voluntary organisation established in 2002. The MEF is a member of the International Organisation of Employers (IOE) since 2005 and a member within BusinessEurope.

An Agency for Peaceful Settlement of Labour Disputes was established in April 2010, with a tripartite steering committee as governing body. It is the first body of this kind in Montenegro.

## **II.d. Employment policy**

A National Employment and Human Resources Development Strategy for the period 2012–2015 aims at contributing to the achievement of Europe 2020 objectives. An Action plan for Employment and Human resource development for 2013 was adopted in December 2012. It focuses on measures and activities directed particularly at young people and the long-term unemployed. The same focus, along with promotion of seasonal work, will remain in the Action Plan on Employment and Human resource development for 2014 adopted by the Government in December 2013. Their implementation is monitored by a new National Employment and Resource Development Council established in June 2013 consisting of representatives from different ministries and institutions as well as of the social partners and NGOs. Local employment and human resource development strategies for the period 2011–2015 have been also developed in four northern municipalities of Montenegro (Pljevlja, Berane, Bijelo Polje and Mojkovac).

As regards the labour market situation, activity and employment rates slightly increased in 2012 to 50% and 40.1% respectively as compared with 48.7% and 39.1% in 2011. Unemployment contracted marginally, but still remained high at 19.7% on average in 2012 (2011: 20%) according to the EU Labour Force Survey. According to the Employment

agency of Montenegro, the registered unemployment rate was 13.5% at the end of 2012, but climbed to 14.2% in the first quarter of 2013 (compared with 13.6% a year before). A working group has been established between Monstat and the Employment Office to study the problem of discrepancy between LFS and registered unemployment rates. An EU Member State expert will also provide assistance in this respect. According to Montenegro, current challenges on the labour market are long-term unemployment, youth unemployment, regional disparities in employment as well as unemployment rate.

Especially youth unemployment among the high-skilled (or graduates) has dramatically increased between 2012 and 2013 (from 20.6% to 27.16%). An Action Plan on youth employment for 2014 was adopted by the Government in November 2013, and several projects have been implemented in the past to tackle the issue. For example, a project “Internship for graduates” has succeeded in providing traineeships for over 4 000 college graduates since January 2012. This project is scheduled to continue also in 2014. Moreover, a Law on Professional training of persons who acquired higher education was adopted in 2012. On the basis of this Law, professional training lasts for nine months and is recognised as professional experience of 12 months.

In general, Montenegro stated that funds for active labour market measures have contracted drastically (from € 12 million in 2008 to € 4.3 million in 2012). The Action plan for Employment and Human resource development for 2013 foresees the setting up of a system for monitoring and measuring efficiency of implemented labour market measures. A programme on self-employment loans is in place since 1999 for unemployed, small-sized enterprises and entrepreneurs, with specific incentives for women entrepreneurs, as well as for the development of entrepreneurship in underdeveloped local self-governments.

As regards administrative capacity, the Employment Agency of Montenegro is organised through a Head Office, seven regional employment centres and 14 employment offices. It has 335 employees in total. Services to the unemployed and employment mediation services are provided free of charge. Furthermore, Montenegro indicated that Centres for Information and Professional counselling have been established in eight Montenegrin cities (Podgorica, Bar, Herceg Novi, Nikšić, Berane, Bijelo Polje, Mojkovac and Pljevlja), covering 73 % of Montenegrin citizens, as well as in the University of Montenegro. Their main purpose is to provide conditions for career development for school pupils, students, employed and unemployed persons.

A Strategy for Adult Education (2005–2015) is in place. There were 12 000 participants through public funds in 2011. However, Montenegro indicated that there is no systematic promotion of adult education or lifelong learning in Montenegro, although an adult education fair is organised yearly. For example, the private sector hardly invests in adult education. Montenegro stated that more efforts are needed to develop a network of education providers.

Montenegro stated that there are no reliable and precise data as regards *undeclared work* in Montenegro. According to ILO Report “Global Employment Trends in 2013”, undeclared work in Montenegro increased from 17% to 19% of GDP in 2000–2010. A Law on the Prevention of Illegal Businesses was adopted in June 2013 to remedy the problem. A coordination team for combating the grey economy, a governmental body, was set up in April 2012 and an Action plan for 2013 was adopted by the Government in March 2013. Operational teams have been formed in seven municipalities in order to exchange and analyse data on undeclared work. Fines between € 500 and € 20 000 are foreseen by law for not signing a labour contract. A campaign “Stop Grey Economy” with support of ILO is

being carried out since 2008. According to Montenegro, fight against undeclared work has been significantly intensified compared to 2012.

### **II.e. European Social Fund (ESF)**

Montenegro's strategic coherence framework was endorsed by the Commission in December 2012 and an Operational Programme for Human Resources Development 2012–2013 was adopted in October 2012. Montenegro indicated that an Operating structure was established in July 2011 with the overall responsibility by the MLSW. A new section for programming and implementing EU funds was set up in March 2013 as an independent unit within the MLSW. Members of the Operating structure have had a series of training sessions to improve their capacity in the field of programming. Montenegro indicated that administrative capacity needs to be strengthened in this area, especially as from 2014. IPA I assistance is ongoing in this respect since September 2013. The main challenge in the future, according to Montenegro, will be ensuring the readiness of the Operating structure. In addition, the country is undergoing an accreditation process of its structures in order to be granted a conferral of management powers from the European Commission, which will allow implementation of IPA IV funds. Also, Montenegro stated that the principles of partnership should be strengthened, and potential grant applicants should be motivated to prepare project proposals in order to absorb relevant funds.

### **II.f. Social inclusion**

Montenegro stated that the absolute poverty line was set at € 175.25 monthly in 2011. 9.3 % of the population were living below this poverty line in 2011. The rural population is much more at risk of poverty than the urban population. The largest share of socially excluded households are situated in the northern region; their biggest obstacles are inadequate access to health care services and insufficient income. The Roma, Ashkali and Egyptian (RAE) population is the only highly vulnerable ethnic group in Montenegro.

Montenegro stated that a number of strategies are in place in the area of social inclusion. The first Strategy on Social Exclusion 2007–2011 was adopted by the Government in 2007 defining the notion of social exclusion for the first time. A Strategy for improving the position of Roma, Ashkali and Egyptian population 2012–2016 was adopted by the Government in April 2012, accompanied by a yearly Action plan. A Strategy for Social and Child Welfare 2013–2017 and a Strategy for social protection of the elderly 2013–2017 were adopted in June 2013. Also a new Law on Social and Child Protection was adopted by the Parliament in May 2013 providing minimum standards for the provision of social services and child protection.

Social and child care is financed from the State budget. IPA assistance is ongoing to reform the social and child welfare system and improve social inclusion in Montenegro. In six municipalities, local social inclusion plans have been adopted, and they are being prepared in nine other municipalities. Policies have also been developed to improve the status of the RAE population. Training has notably been provided in the field of education and care for vulnerable children (the RAE population and children with disabilities). The number of Roma and Egyptian children in primary education has steadily increased over the years. Guidelines were also adopted for their inclusion into the mainstream education system. Also, on average, between 50 and 100 unemployed RAE population are included yearly in active labour market programmes.

As regards deinstitutionalisation, a Master Plan of Transformation of “Komanski Most” institution was finalised in December 2013, and the Master Plan of Transformation of the

children's institution in Bijela is expected to be finalised in early 2014. The overall objective is to reduce the number of children in the residential institutions for social and child protection by 30 %, develop foster care (there should be no children aged from 0–3 in residential institutions by 2017) and open more day-care centres for children and adults in addition to the seven existing ones for children with disabilities. The existing two institutions are foreseen to be reformed, and inspections strengthened.

Montenegro stated that the share of *people with disabilities* in Montenegro is around 10–11 %. Montenegro ratified the UN Convention on the Rights of people with disabilities (UNCRPD) in July 2009. An Initial Report on the Implementation of the UNCRPD was adopted by the Government in January 2014. A Law on Prohibiting Discrimination of Persons with Disabilities was adopted in 2011. It is foreseen to be amended by the end of 2014 in order to bring it in line with the *acquis*. Montenegro also indicated that IPA assistance is foreseen to harmonise the Montenegrin legislation with the UNCRPD. A Strategy for Integration of people with disabilities 2008–2016, with a respective Action plan, was adopted in 2007. The Strategy envisages the adoption of Action plans in this area every two years. Amendments to the Law on spatial development, adopted in July 2013, foresee some measures to improve accessibility. Also an Action Plan for Adapting facilities for the access of persons with reduced movability and people with disabilities for 2014 was adopted by the Government in October 2013. Awareness raising activities have also been carried out on accessibility. On the basis of the Law on Vocational Rehabilitation and Employment of Persons with Disabilities (2008), special subsidies may be granted to employers for hiring people with disabilities. Also a quota system for the employment of people with disabilities was introduced in May 2009. However, most companies concerned prefer to pay a non-compliance fee for not employing people with disabilities. Montenegro also indicated that it tries to encourage self-employment of people with disabilities. As regards institutional structures, a Council for the Care of Persons with Disabilities has been established. It is chaired by the MLSW and it consists of representatives of six different Ministries, of the Employment Agency and of five NGOs. Local councils for taking care of people with disabilities have been established in several municipalities and they include representatives of the local organisations of people with disabilities. In general, Montenegro pointed out to the significant media coverage of events related to people with disabilities in Montenegro.

## **II.g. Social protection**

A compulsory health insurance is in place in Montenegro. 80 % of health care services are paid by the State. The health insurance reaches out to a large number of vulnerable groups.

The Government and the UNDP cooperate since May 2012 within a project “Social Card”. The first phase of introduction of the Social Card / Social Welfare Information System in Montenegro (SWIS) has started. The objective is to improve the capacity of the Government to plan and monitor, track and manage social protection payments and services, as within the current ‘social database’ it is not possible to see how many employees are beneficiaries of social assistance. The project aims at relieving significantly the administrative burden for social workers. In order to help disadvantaged population groups, two programmes are being implemented in Montenegro: a) programme of subsidising electricity bills to the most vulnerable groups, and b) programme to provide free textbooks at schools. A large number of training courses on planning, development, delivery and sustainability of social services have been provided.

The Montenegrin pension insurance system was reformed in 2011 and consists of a mixed public and private pension insurance system based on the first and third pillars. The compulsory pension and disability insurance (I pillar) is regulated by the Law on Pension and



Disability Insurance while the voluntary pension insurance based on individual capitalised savings (III pillar) is regulated by the Law on Voluntary Pension Funds since 2006. Two voluntary pension funds have been established. The Government has not yet decided whether it will establish a compulsory pension insurance based on individual capitalised savings (II pillar). The objective is also to equalise pensionable age for women and men and to increase the statutory retirement age from 65 to 67 (in 2025 for men and in 2041 for women).

### **II.h. Anti-discrimination**

The Constitution of Montenegro prohibits discrimination ‘on any ground’ and a comprehensive Anti-discrimination Law was adopted in July 2010, banning discrimination on any grounds, including sexual orientation, birth and gender identity. The Law includes provisions on the “Protector of human rights and freedoms” (Ombudsman) designating this institution as an equality body with competences corresponding to those set out in related EU directives. Montenegro stated that the Anti-discrimination Law is foreseen to be amended in the first half of 2014 to bring it in line with the *acquis*. Several other laws, including the Labour Law, also contain provisions prohibiting discrimination on a number of specific grounds covered by EU legislation.

A Plan for the Implementation of anti-discrimination legislation has also been adopted in 2011, which includes a Plan of education in the field of protection from discrimination and a Plan of promotion of anti-discriminatory behaviour and practise. In this context, several trainings have been carried out aimed at raising awareness of representatives of the State administration, police, judiciary, NGOs, as well as representatives of local self-government, all regional police units and representatives of inspection services in Montenegro. A wide-ranging media campaign in this area was also carried out throughout 2011, and in 2012, the media campaign focused on LGBTI people, people with disabilities and women. A Rulebook on the contents and manner of keeping records of cases of reported discrimination was adopted by the Ministry of Human and Minority Rights in April 2011. The reported cases of discrimination are included in the special report on discrimination submitted to the Parliament of Montenegro by the Ombudsman. Fines, ranging from € 500 to € 20 000, are stipulated by law for the violations of certain provisions of the Anti-discrimination Law. Montenegro stated that the strongest discrimination is faced by Roma, people with disabilities and women.

Apart from the Ombudsman, the main State actors in this area are the Ministry of Labour and Social Welfare, the Ministry for the Protection of Human and Minority Rights and the Ministry of Justice. An Anti-Discrimination Council has been established which is composed of the Prime Minister and seven (line) ministers. NGOs are also involved in the work of the Council. Since August 2011, the Prime Minister’s Cabinet includes an adviser for human rights and anti-discrimination. There are currently four deputy Ombudsmen with 26 staff in total.

### **II.i. Equal opportunities**

Montenegro is a party to a number of relevant international conventions, including the UN Convention on the elimination of all forms of discrimination against women (CEDAW). According to the Constitution, the State shall guarantee the equality of women and men and shall develop the policy of equal opportunities. Discrimination on grounds of sex in relation to employment is also prohibited by the Labour Law and the Gender Equality Act (2007), to mention the principal instruments. A second Action Plan for the Achievement of gender equality for the period 2013–2017 was adopted in January 2013. It foresees *inter alia* to raise the employment rate of women, introduce gender-sensitive education at all levels of

education, suppress gender stereotypes and introduce gender equality in media and culture. NGOs participate in the drafting of the Action Plan and in its monitoring. Action plans for gender equality have also been adopted at local level.

Montenegro stated that equal pay is regulated in the Labour Law. Self-employed women account for 10% of the total number of self-employed; this is encouraged through advantageous loans specifically for women. As regards access to employment, vocational training and promotion, and working conditions, prohibition of discrimination and definition of direct and indirect discrimination are regulated by the Labour Law. Job vacancies must be advertised in such a way that persons of both genders may apply. According to Montenegro, women are protected especially during pregnancy and motherhood. Harassment and sexual harassment are defined by law. In cases of discrimination based on sex, the burden of proof falls on the employer. Courts determine the amount of damages and compensation.

As regards pregnant workers, maternity leave (may be used for 45 days, and obligatorily 28 calendar days prior to delivery<sup>2</sup>) is regulated by the Montenegrin legislation. An employer cannot refuse a woman for reasons of pregnancy, cancel her employment contract or transfer her to other jobs. Night-time and overtime work during pregnancy and for a woman with a child under three years of age is prohibited. Parental leave is granted on a transferable basis. Either mother or father may use it for 365 days from the birth of the child with a full compensation of pay. The parents retain the right to return to the same or to an adequate working position after parental leave with at least the same salary.

The State administration body responsible for tasks related to gender equality is the Ministry of Human and Minority Rights. An Office for Gender Equality was established by the Government in March 2003. It operates as the Department of Gender Equality at the Ministry. Offices for gender equality have also been established in four municipalities (Niksic, Cetinje, Pljevlja and Bijelo Polje). Gender equality training sessions have been carried out by the Office for Gender Equality targeting different groups, such as head teachers from primary schools, rural women, lawyers, employees of local State administration, etc.

### **III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY**

Overall, Montenegrin legislation is partially aligned with the *acquis* in the field of social policy and employment. Legislative work is currently being carried out in this area in view of aligning with the *acquis*. Resolute action is needed in order to advance in legal alignment and to address also the critical labour market situation. Efforts should be stepped up as regards poverty reduction, improving the inclusion of the RAE population, people with disabilities and other vulnerable groups. Due functioning and transparency of social dialogue need to be ensured. In general, planning of the work ahead in the area of social policy and employment as well as Montenegro's implementation and enforcement capacity will require sustained attention, as the administrative capacity will need to be strengthened across all the sectors if the *acquis* is to be properly applied. Also, sufficient funding should be ensured, for example in the field of health and safety at work.

#### **III.a. Labour law**

Some of the basic principles laid down by the EU labour law *acquis* appear to be in place. A significant number of important adjustments to the national legislation in this area will be

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<sup>2</sup> EU *acquis* requires 14 weeks of leave.

necessary in order to prepare for complete legal alignment in this area. Due implementation and enforcement of the legislation needs to be ensured. Administrative capacity needs to be substantially strengthened, including through the provision of adequate training.

### **III.b. Health and safety at work**

Due to obsolete legislation adopted well before the time of the current *acquis* in force in the area of health and safety at work, substantial part of legislation aiming at transposing the *acquis* in this area is currently under preparation. Due attention needs to be paid particularly to legal alignment and enforcement of the Framework Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, as it contains the general principles regarding prevention, employers' responsibility, risk assessment, training, consultation and participation of workers as well as the obligation to designate workers regarding the protection and prevention of occupational risks.

The capacity of the Directorate for Inspection Affairs, including the labour inspectorate, is not adequate due to limited financial resources and the lack of an adequate IT system. In general terms, the structure, faculties and human resources of the Department for Labour Inspection need to be improved so as to guarantee an efficient enforcement of the *acquis* in this area. Social partners as well as other public bodies, such as the Ministry of Health, should be involved in the programming and planning of labour inspection activities. The Department for Labour Inspection also needs to become more mobile.

### **III.c. Social dialogue**

The institutional framework for social dialogue in Montenegro is in place. Amendments to the Law on Trade union representation are a step in the right direction to increase transparency. Legal basis has been created for the establishment of the Social Council Secretariat. The Social Council has met regularly and provided opinions and recommendations on a number of important pieces of draft legislation and issues, including negotiations on the new general tripartite collective agreement after the previous agreement expired in November 2011. These negotiations on a new General Collective Agreement should be concluded. Bipartite and autonomous social dialogue remains rather weak, especially in the private sector and at corporate level. Also, the capacity of social partners needs to be improved.

### **III.d. Employment policy**

The labour market situation in Montenegro remains critical due to low activity and employment rates and high unemployment. The 2013 Action plan for Employment and Human resource development focused on measures and activities directed particularly at young people and the long-term unemployed, but it was not fully implemented due to budgetary constraints. Resolute action is needed to address low activity and employment rates and the mismatch between the skills available and needs, partly through increasing the capacity of the public employment service to implement activation policies. Development and employment gaps between the north and other parts of the country need also to be addressed. In this respect, the impact of the economic and financial crisis on the implementation of the active labour market measures is a concern. Sufficient attention should also be paid to adult education and training. Within the public employment service, the network of local employment offices should be sufficiently equipped and widespread so as to be able to implement, in due course, the European Employment Strategy. Cooperation between the employment offices and training institutions should be strengthened. Also undeclared work continues to be an obstacle to increasing regular employment. Furthermore,

developing reliable data and statistics remains an outstanding issue in several areas, in particular for labour market analysis.

### **III.e. European Social Fund (ESF)**

In terms of preparation for ESF, a large number of elements required by the *acquis* in the area of cohesion policy are not yet in place. Montenegro will have to adapt its legislation and structures in order to be able to successfully manage, implement, monitor, audit and control ESF-type measures. The administrative capacity of all authorities involved, mainly government bodies, but also municipalities and education institutes, will need to be strengthened. Good progress in the preparation and implementation of IPA component IV on human resources development will be an indicator of capacity to manage ESF funds efficiently upon accession.

### **III.f. Social inclusion**

Implementation of the Strategy for improving the position of the Roma, Ashkali and Egyptian population 2012–2016 has been slow, without clear funding resources and sufficiently skilled staff. Substantial efforts are necessary to ensure the social inclusion of all the socially and economically disadvantaged and vulnerable groups, such as Roma, Ashkali and Egyptians, people with disabilities as well as the youth and elderly. A more strategic approach to social benefit reforms appears necessary in order to provide more effective support for the neediest parts of the population. Further improvements are needed in the Law on Social and Child Protection the implementation of which should clearly reflect the standards and requirements set out in the UN Convention on the Rights of the Child. Related statistics will need to be improved and in particular a data base and indicators used in the EU to monitor social inclusion and social protection will need to be developed. Awareness raising activities in this area should continue.

As regards people with disabilities, the Law on Prohibiting Discrimination of Persons with Disabilities continues to present shortcomings, notably as regards definitions, sanctions and the obligation of employers to provide reasonable accommodation. The financial support paid to employers for employing people with disabilities is insufficiently protected against misuse. Notwithstanding measures taken, overall access to buildings, including education and medical facilities, by people with disabilities remains a concern. Attention should be paid to the creation of community-based services as an alternative to institutionalisation. Sufficient financial resources should be allocated in order to ensure due implementation of the Strategy for Integration of people with disabilities. Developments in this field should be monitored carefully.

### **III.g. Social protection**

Montenegro has implemented a number of reforms in the field of social protection, notably of pensions, e.g. increasing the retirement age. In order to face the demographic challenge of an ageing population, efforts to promote employment of women and older workers need to continue. Progress on administrative and fiscal decentralisation of social services continues to be limited. Further measures are needed for improving the sustainability of the pension system. In the health care sector, equal access to health care services need to be ensured, also for representatives of socially disadvantaged groups, e.g. Roma, Ashkali and Egyptians and internally displaced persons.

### **III.h. Anti-discrimination**

The Anti-discrimination Law is broadly in line with the *acquis*, but some aspects, such as the scope of the prohibition of racial discrimination, the definition of segregation as well as the sanctions for acts of discrimination, will need to be further aligned with the *acquis*. The Law includes provisions on the “Protector of human rights and freedoms” (Ombudsman) designating this institution as an equality body with competences corresponding to those set out in related EU directives. This will need to be complemented with further guarantees for effective and independent functioning of the Ombudsman in the Law on Ombudsman. Authorities generally show commitment towards anti-discrimination policies. However, capacities of the Ombudsman’s Office still remain limited despite the appointment of new staff. Also, the financial and administrative capacity of the Council for Protection against Discrimination is not yet adequate. Public awareness in this field needs to continue to be raised. Awareness among judges of the anti-discrimination *acquis* is not widespread either. Furthermore, attention should also be paid to the availability of sufficiently comprehensive statistical data in order to allow adequate monitoring of discrimination on the basis of different grounds. Generally, effective implementation of existing legislation and strengthening of related administrative capacity is the main challenge. Developments in this field need to be monitored carefully.

### **III.i. Equal opportunities**

Basic legislation in this area is in place, comprising equal pay, access to employment and maternity protection, including maternity leave. Further legal adjustments are, however, necessary, e.g. aligning several definitions with those of the Anti-discrimination Law and further bringing the legislation in line with the EU *acquis*, notably on the questions of equal pay and occupational social security schemes (Directive 2006/54/EC), of self-employed activities (Directive 2010/41/EU) and of statutory social security schemes (Directive 79/7/EEC). Legal alignment remains also to be completed in the areas of parental leave (Directive 2010/18/EU) and maternity leave (Directive 92/85/EEC). Promotion of gender equality and women’s rights has improved at the level of the national and local public administration; capacities of the civil servants in this field have been strengthened. However, enforcement of women’s rights is an issue of concern, as governmental gender mechanisms remain under-staffed and under-funded by the State budget. Further efforts to raise awareness on gender equality are necessary, particularly in rural areas. Availability of gender-segregated statistical indicators should be ensured. Generally, effective implementation of existing legislation and strengthening of related administrative capacity is the main challenge.