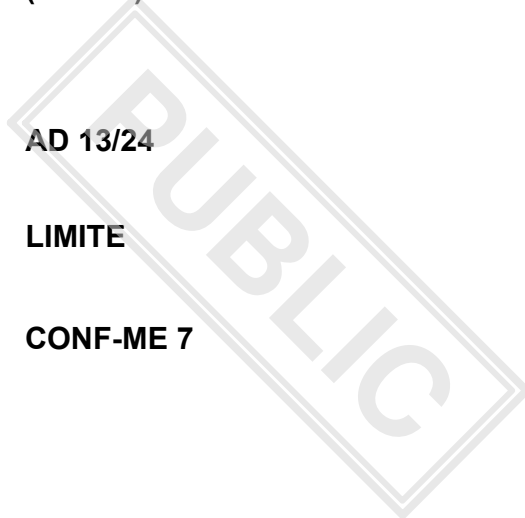


AD 13/24

LIMITE

CONF-ME 7



ACCESSION DOCUMENT

Subject: EUROPEAN UNION COMMON POSITION
Chapter 23: Judiciary and fundamental rights

EUROPEAN UNION COMMON POSITION

Chapter 23: Judiciary and fundamental rights

The EU agrees that Montenegro has, overall, met the interim benchmarks set in the opening European Union Common Position (CONF-ME 13/13). Based on this assessment, this interim EU Common Position complements the opening EU Common Position and serves inter alia to set closing benchmarks in chapter 23 to provide further guidance for the work ahead.

This position of the European Union is based on its general position for the Accession Conference with Montenegro (CONF-ME 2/12), and is subject to the negotiating principles endorsed by the Accession Conference (CONF-ME 8/12), in particular:

- any view expressed by either Montenegro or the EU on a specific chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;
- agreements reached in the course of negotiations on specific chapters, even partial ones, may not be considered as final until an overall agreement has been reached for all chapters;
- the requirements set out in points 24, 28, 41, 42, 43 and 44 of the Negotiating Framework and Montenegro's acceptance of the 2020 revised enlargement methodology (CONF-ME 5/21).

The EU encourages Montenegro to continue the process of alignment with the EU *acquis* and European standards and effective implementation and enforcement, and in general to develop, already before accession, policies, and instruments as close as possible to those of the EU. The EU notes that Montenegro, in its position CONF-ME 7/13 accepted the *acquis* under chapter 23 and that it will be ready to implement it by the date of its accession to the European Union.

The EU positively notes the various steps and measures adopted and implemented by Montenegro based inter alia on its action plan on this chapter and in particular its efforts to meet the interim benchmarks set in CONF-ME 13/13.

The issues covered by chapter 23 are among the fundamental reforms essential for success on the EU path. Consolidation of efforts related to the interim benchmarks must continue to ensure that reforms become entrenched. The EU notes that it will be essential that Montenegro establishes a solid and convincing track record of implementation across the board, demonstrating that the reforms deliver concrete results, with tangible and irreversible impacts on the sectors concerned. The establishment of track records and achieving concrete results are key aspects of the closing benchmarks set out in this position.

The EU also recalls **Montenegro's acceptance of the 2020 revised enlargement methodology** (CONF-ME 5/21) which provides for an even stronger focus on the fundamental reforms in the accession negotiations. In line with its commitments in this respect and priorities identified in the relevant policy dialogues with the EU, the EU calls on Montenegro to address key issues as regards the functioning of democratic institutions and public administration reforms in a structured and strategic way including as appropriate through action plans.

1. The Judiciary

The EU invites Montenegro to apply a robust monitoring and reporting system to its reform efforts, with a particular focus on the implementation of the recently adopted judicial reform strategy and its action plans and to take timely remedial actions in case deadlines or objectives are not being met. In addition, the EU calls on Montenegro to continue aligning its legal framework for the justice system with the EU acquis, and European standards, in particular the Law on the Judicial Council and Judges, the Law on the State Prosecution Service and the Law on Special State Prosecution, including Venice Commission recommendations. The EU encourages Montenegro to adopt key reforms through a transparent, accountable, inclusive, and democratic law-making process.

Independence and impartiality

The EU underlines that judicial independence, impartiality, integrity, and efficiency are fundamental principles and core elements of any democratic state based on the rule of law. The EU recalls that the judiciary should be free from any internal or external influence or manipulation. Judges should act in an independent and impartial manner, and prosecutors should have autonomy and the necessary safeguards in place regarding general and individual instructions. They should act in an impartial manner with no cases of selective prosecution. The EU recalls that the principles of mutual trust and **independence of the judiciary go hand in hand and are crucial to enable Montenegro to effectively implement all judicial cooperation instruments with other EU Member States as of accession.**

The EU invites Montenegro to ensure that the judiciary has sufficient resources (including sufficient staffing and budget, fair and adequate work-related rights and working conditions for judges and prosecutors guaranteeing the security of tenure of judges and the protection against arbitrary removal of prosecutors, and investment in infrastructure) to ensure its independence, impartiality, integrity, and efficiency. The appointment of judges and prosecutors should be based on single, nationwide, transparent, and merit-based systems, as should be their appraisal and promotions. The EU also recalls the importance of respecting in all courts the principle of random allocation of cases. The EU invites Montenegro to ensure publication of and adequate access to final court decisions both in the interest of development of case law and consistent judicial practice and wider public dissemination.

The EU underlines the importance of continuing to improve the capacity of the Judicial and Prosecutorial Councils to perform their key functions, in particular for the governance of the appointment, training, promotion and disciplining of judicial officials in a professional, accountable, transparent, and impartial manner. The EU recalls that the composition of both Councils should be based on merit, transparent and clear criteria, rules, and standards, and guarantee their democratic legitimacy and independence. According to European standards, a Minister of Justice as member of the Judicial Council shall not vote on decisions on transfer and disciplinary proceedings for judges. GRECO has recommended to abolish the ex-officio membership of the Minister of Justice. The Minister of Justice of Montenegro issued a formal decision on 24 May 2024 by which he recuses himself from participating in the work of the Judicial Council, to offer the necessary legal guarantees pending the outstanding legislative and constitutional changes to bring the Constitution in line with European standards. Another relevant standard regarding the composition of the Judicial Council is that judges chosen by their peers must make up at least half of its members. Ex-officio judge members do not count in this regard. In the present composition of the Judicial Council in Montenegro, judges selected by their peers are in a minority. This situation will also need to be addressed through constitutional amendments.

Accountability

The EU underlines the key importance for any judge or prosecutor to be accountable, in full respect of high ethical standards in the judiciary, in line with relevant European standards. It calls on Montenegro to ensure effective implementation of preventive measures including codes of ethics, disciplinary rules, asset declaration and verification systems, as well as to improve awareness raising, including with the public as regards available complaint mechanisms, which should be effective.

The EU urges Montenegro to ensure that disciplinary proceedings are effectively and consistently conducted and that cases of suspected wrongdoing – including breaches of the code of ethics – are effectively investigated, addressed and, when needed, sanctioned. The administrative judicial inspection system should effectively carry out its work.

Professionalism / competence / efficiency

The EU urges Montenegro to step up its ability to effectively monitor and improve the efficiency of its judicial system, including through data collection in compliance with the European Commission for the Efficiency of Justice (CEPEJ) guidelines. The EU calls on Montenegro to accelerate efforts to reduce the backlog of cases and ensure that its judicial system renders timely decisions following the fair consideration of issues. The EU encourages Montenegro to further develop and implement an efficient ICT system for the functioning of the judiciary. The EU calls on Montenegro to ensure an efficient case management system is in place and effectively implemented, and increased use of alternative dispute resolution continues to be promoted.

The EU urges Montenegro to continue the rationalisation of the judicial network based on the existing analyses and building on the plan adopted in May 2024. The EU urges Montenegro to ensure that the enforcement of court decisions is effective and efficient and to establish a related monitoring system.

The EU underlines the importance of harmonised case law and the availability of an accessible, up-to-date, and comprehensive judicial database, respecting data protection rules. The EU underlines the importance of judicial training and calls on Montenegro to improve the quality and capacity of its Judicial Training Academy.

Handling of domestic war crimes cases

The EU urges Montenegro to further intensify its efforts to fight impunity, including on high levels, for war crimes by applying a proactive approach to effectively investigate, prosecute, try, and punish war crimes in line with international law and standards, including full cooperation with the International Residual Mechanism for Criminal Tribunals, and to ensure access to justice and reparations for victims. The EU underscores the importance of meaningful regional cooperation in the domestic handling of war crimes, resolving the remaining cases of missing persons.

2. Anti-Corruption

The EU notes that corruption remains an issue of concern in Montenegro and underlines the need to intensify efforts to continue establishing effective anti-corruption policies, based on the rule of law, as well as to properly administer EU funds. It urges Montenegro to intensify its efforts to monitor, prevent and counter corruption, aligning its legal and strategic framework with relevant EU *acquis*, European and international standards, strengthening relevant institutions and delivering a solid track record of results. The EU invites Montenegro to implement in full the recommendations stemming from international monitoring mechanisms on Conventions it is party to, including the UN Convention Against Corruption and Group of States against corruption (GRECO).

The EU encourages the effective and timely implementation by Montenegro of its multiannual anticorruption strategy and its action plan based on European and international standards, and inclusive monitoring of its impact.

Prevention of corruption

The EU recalls the importance of ensuring a solid **legal framework** for the prevention of corruption and calls on Montenegro to ensure continued alignment with the EU *acquis*, European and international standards.

Moreover, the EU recalls that strong and independent institutions are crucial to prevent corruption. The EU invites Montenegro to ensure that the **Agency for the Prevention of Corruption** has adequate resources to effectively carry out its mandate in an independent, impartial, and pro-active manner and establish a solid and sustained track record, including the application of deterrent sanctions, on cases falling under its responsibility. The EU underlines the importance of continuing to ensure the merit-based appointment and recruitment of the Agency's management and staff. The EU encourages Montenegro to improve and consolidate the operational cooperation between the Agency and the prosecution service in cases where possible criminal liability is detected. Attention should also be paid to the identification, and credible and consistent investigation of cases of inexplicable wealth and the frequency and thoroughness of checks into potential abuses of public funds for political party funding, including through the work of the State Audit Institution. The EU also invites Montenegro to raise awareness of and actively promote the enforcement of the Law on Lobbying.

The EU calls on Montenegro to implement a solid strategic approach to the mainstreaming of efforts to prevent and counter corruption. This should translate into substantial improvements towards the **eradication of corruption in vulnerable sectors**, based on evidence-based policy making, with effective implementation monitoring of concrete measures. The EU urges Montenegro to urgently address shortcomings in the legal framework governing the **financing of political campaigns and of political parties and entities** based on the commitment expressed by the Government with cross-party support in the Parliament, notably through complying with GRECO and ODIHR recommendations to substantially increase transparency, control of the spending of political parties and prevent abuse of state resources, including dissuasive sanctions. The EU urges Montenegro to make the voting register fully accurate. The EU encourages Montenegro to adopt a Code of Ethics for top executive officials in line with European and international standards and ensure its effective implementation.

The EU underlines the importance of an effective, transparent, and depoliticised State Electoral Commission.

The EU reiterates that more transparency is needed in the management of public funds. The EU urges Montenegro to increase transparency in **procurement procedures**, increase competitiveness and fairness of public procurement tenders, limit the use of confidential procedures and introduce safeguards against undue influence. The EU further invites Montenegro to implement e-procurement in line with the EU *acquis* and to increase both the frequency and quality of checks on the overall public procurement cycle. The EU also recalls that strong independent oversight bodies remain essential in areas particularly prone to corruption.

The EU invites Montenegro to step up efforts to effectively raise awareness of, prevent and address **public sector corruption**, making full use of well-established tools such as public reporting legislation, rules and procedures on the declaration of interests and assets to prevent conflict of interest situations, and the adoption and implementation of codes of conduct at all levels. The EU underlines the need for the credible and consistent application of disciplinary sanctions or other measures against public officials who violate the codes of conduct of the different public administrations and legal provisions. The EU urges Montenegro to actively promote transparency, and to ensure accountability and a culture of ethics and integrity in politics and public life at large.

The EU recalls the importance of a professional and accountable **public administration** respecting and promoting the principles of transparency and integrity while ensuring quality and the principles of merit, de-politicisation and transparency in recruitment, appraisals, and dismissals. The government's code of conduct should be binding, and breaches should lead to effective disciplinary penalties. The EU invites Montenegro to establish a harmonised policy planning system, linking strategic planning with budgetary resources and supported by a central coordination and quality control function; to foster inclusive, evidence-based policy development through the credible and consistent use of data, statistics and impact assessments and the use of public consultations; and to ensure the correct handling of access to information requests and fair and efficient administrative procedure by harmonising relevant sector legislation, including implementing legislation of the Law on Administrative Procedures so as to ensure legal certainty and predictability for citizens and businesses.

Repression of corruption

The EU underlines the importance of a robust judicial and law enforcement response to tackle and to effectively sanction corruption, in particular at high level. In this regard, the EU calls on Montenegro to establish a **solid and sustained track record** of investigations, indictments, and trials leading where appropriate to convictions, showing concrete results in fighting corruption, including high-level corruption. This should also include investigations in cases of inexplicable wealth, as well a credible and consistent practice of seizing and confiscating the proceeds of corruption related crimes and applying dissuasive and proportionate criminal sanctions. The EU underlines the need to establish a credible and consistent practice of launching parallel financial investigations when dealing with corruption cases, including high-level corruption, white collar crimes and money laundering. The EU underlines the need to intensify the efforts to improve the operational capacity of the recovery office responsible for identifying and tracing criminal assets. The EU recalls the greater Importance of access to electronic evidence and encourages Montenegro to develop its specialisation to effectively conduct electronic investigations in a credible and consistent way. The EU urges Montenegro to thoroughly implement the revised use of plea bargain agreements and to use such agreements in a balanced manner, especially when high level corruption is concerned. This track record will remain the key indicator on the basis of which Montenegro's anti-corruption efforts will be assessed.

The EU underlines the importance of ensuring a solid **legal framework** for the repression of corruption, including the criminal legislation, and calls on Montenegro to ensure continued alignment with the EU *acquis*, European and international standards.

In this context, the adequate **operational capacities** of the specialised anti-corruption bodies and regular judicial institutions are key. The EU invites Montenegro to continuously strengthen its specialised structures (the Special Department of the High-Court of Podgorica), the Special Prosecution Office (SPO), the Special Police Unit (SPU), and the Financial Investigations Unit of the Police (FIU), including providing required means (including decent housing conditions, specialised and sufficient staff and budget, adequate equipment, and access to required databases) to effectively cope with their workload and more pro-actively conduct investigations and prosecute complex corruption cases, including high-level corruption. The EU also urges Montenegro to ensure a smooth, swift, credible and consistent use of the concept of financial investigations (in line with the FATF standards) as early as possible in the criminal procedure, to criminalise illicit enrichment.

The EU recalls the importance of efficient **international cooperation** to prevent and fight corruption, including high-level corruption, and encourages Montenegro to continue improving its legal framework by aligning it with relevant international instruments, deepening the effective cooperation with neighbouring countries and EU Member States, as well as further developing its cooperation with the European Public Prosecutor's Office, Europol, Eurojust and OLAF, including on cross-border access to evidence and electronic evidence.

3. Fundamental Rights

Human rights

The EU calls on Montenegro to ensure that fundamental rights are fully protected both in law and in practice and that it will implement upon accession the European Charter of Fundamental rights and other relevant EU *acquis*. The EU invites Montenegro to pay particular attention to the **correct implementation of the rights and freedoms set out in the European Convention on Human Rights**, its protocols, its jurisprudence and to the enforcement of the judgements of the European Court of Human Rights. The EU also invites Montenegro to implement the provisions of the International and European conventions to which it is a party.

The EU urges Montenegro to strengthen its **institutional framework for the promotion and protection of human rights**, including the Ministry for Human and Minority Rights and the Ombudsperson's Office (including the National Preventive Mechanism against torture) in line with the Paris principles. This includes *inter alia* to effectively implement the recommendations of the **European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT)**; to ensure effective protection of victims of human rights violations, including by providing for effective investigations, indictments, and trials leading, where appropriate, to convictions into **ill-treatment** by law enforcement or prison staff, and to further strengthen the **probation system**.

The EU calls on Montenegro to ensure **equal treatment and credibly address discrimination** in line with the EU *acquis* and European standards. Particular attention should be paid to promoting **gender equality**, sustained efforts made towards eradicating gender-based violence, and effective mechanisms for redress and assistance to victims. The EU calls on Montenegro to intensify the efforts to protect the rights of LGBTIQ persons credibly and systematically, including by harmonising the legal framework to the Same-sex Partnership Law. The EU calls on Montenegro to further step-up efforts to safeguard the human and social **rights of the child**, including by fully implementing European and international standards and recommendations, tackling violence against children and ensuring a strong child protection system is in place, grounded in community-based care and the best interest of the child as the guiding principle, including as regards children deprived of parental care, with disabilities or in contact with the law. A more credible and consistent application of the rights of **persons with disabilities** is needed, including their de-institutionalisation and inclusion in the community, as well as reinforcing the institutional capacities to guarantee their rights. As regards **property rights**, the EU invites Montenegro to establish a comprehensive, efficient, and transparent property registration and integrated management system, which offers clear and secure property titles.

The EU invites Montenegro to address **racism** and **xenophobia** forcefully, to ensure it effectively responds to and prosecutes **hate crimes**, including **hate speech**, and raises awareness including through education and the media.

The EU urges Montenegro to implement in full its new legislation on **freedom of expression and media**, to properly enforce its legal framework and promote practices that protect freedom of opinion and expression and an enabling environment for freedom of media. It urges Montenegro to address and condemn any violence, persecution, harassment, and intimidation of individuals, including journalists and other media actors and to establishing a track record of investigating and prosecuting cases including application of deterrent sanctions. The EU underlines the importance of guaranteeing the independence of the national broadcaster, and the media regulatory authority. It urges for the consistent and effective implementation of the legal framework. The EU calls on Montenegro to ensure alignment with the obligations of the European Media Freedom Act.

Procedural safeguards

The EU invites Montenegro to align its legislation on procedural rights for victims, suspects and accused in line with the EU *acquis* and to establish the necessary capacity to ensure the rights, support, and protection of victims of crime and that victims of crime are recognised, receive proper protection, support and access to justice and compensation. The EU also invites Montenegro to effectively apply ECtHR case-law, including in cases of prolonged pre-trial detention as well as inconsistent practice of domestic courts.

Protection of minorities; cultural rights

The EU invites Montenegro to implement a robust anti-discrimination policy as well as the commitments taken regarding persons belonging to minorities, including those contained in the Framework Convention on National Minorities and recommendations of its monitoring body. The EU also invites Montenegro to continue strengthening the effective protection and promotion of the rights of persons belonging to minorities, as well as cultural rights.

The EU notes that **Roma and Egyptians** live in particularly disadvantaged circumstances in terms of health, housing, education, and employment. The EU urges Montenegro to substantially enhance its efforts to foster the equality and integration of Roma through the implementation of the National Strategy for the Advancement of the Status of Roma and Egyptians in Montenegro, as well as the Poznan Declaration commitments.

The EU invites Montenegro to continue efforts to find a sustainable solution for **displaced or internally displaced persons** in particular the most vulnerable, and to continue to improve their social and economic integration.

The protection of personal data

The EU urges Montenegro to ensure data protection rules are in place in line with the EU *acquis* sufficiently in advance of accession and that these are applied in a consistent manner both online and offline, including in law enforcement and crime prevention with oversight and effective judicial remedies ensured by the independent national data protection authority.

Citizens' rights

The EU calls on Montenegro to ensure that from accession EU citizens will have the right to vote and stand as candidates in municipal elections and to reside and move freely within the territory of the Member States, and to align with diplomatic and consular protection rules.

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In view of the state of Montenegro's preparations, the EU notes, on the understanding that Montenegro has to continue to make progress in the alignment with and implementation of the *acquis* covered by the chapter Judiciary and Fundamental rights, in particular on those issues set out above, and the priorities identified in the European Commission's annual reports and in the political dialogue between the EU and Montenegro, that this chapter may only be provisionally closed once it is agreed by the EU that the following closing benchmarks are met:

Montenegro implements a comprehensive justice reform in line with the EU *acquis* and European standards on impartiality, independence, accountability, efficiency, professionalism, access to justice and quality. In particular, Montenegro will meet this benchmark once it:

- Ensures effective implementation of its Judicial Reform Strategy and its actions plans and, in particular, puts in place sufficient institutional capacity for the management of judicial reforms.
- Ensures in law and practice the sustained **independence, accountability, professionalism, access to justice and integrity** of the justice system at all levels, including freedom from and resilience of the judicial system to attempts of undue internal and external influence, in line with European standards and Venice Commission recommendations.
- Ensures the capacity, independence, accountability, and **effectiveness of the self-governing bodies** of the judiciary, including as regards the composition and decision-making process of the Judicial Council, in line with European standards.
- Ensures the justice system, including the **Courts and prosecution offices**, is **overall efficient**, with judges and prosecutors delivering **quality** decisions and indictments within a reasonable time period, the existence of a well-functioning integrated case management system, including a reduction in the backlog of cases, financial and human resources including adequate support staff, an effective and qualitative judicial training system in place and effective enforcement of court decisions, with alternative dispute resolution being widely and appropriately used.
- Establishes a credible and sustained track-record of effectively investigating, prosecuting, and trying cases of **war crimes**, including high level cases in line with international law and standards, in full cooperation with the International Residual Mechanism for Criminal Tribunals, and ensures access to justice and reparations to victims.

Montenegro puts in place robust and effective systems to prevent and counter corruption, including high-level corruption. In particular, Montenegro will meet this benchmark once it:

- Establishes adequate **operational capacities** of the specialised anti-corruption bodies and regular judicial institutions to fight corruption, including high-level corruption, through cooperation with relevant EU bodies, including by ensuring the quality and capacity of the training system as well as the efficiency of case management systems.
- Establishes a solid and sustained **track record** of investigations, prosecutions, and final convictions in corruption cases, in particular in high-level corruption cases, including a pro-active and effective approach to **international cooperation**.
- Establishes a solid **track record in seizure and final confiscation of assets**, including a credible and consistent practice of launching parallel financial investigations when dealing with corruption cases, including high-level corruption, and with a fully operational asset recovery office responsible for identifying and tracing criminal assets with adequate human and financial resources.
- Consolidates a robust **corruption prevention framework**, including a solid and sustained track record of administrative investigations and deterrent sanctions, with the Agency for the Prevention of Corruption operating in full political and operational independence and acting in an effective, impartial and pro-active manner on cases falling under its responsibility, as well as with adequate follow up by the prosecution service to cases where possible criminal behaviour is detected by the Agency, ensuring the merit-based appointment and recruitment of its management and staff.
- Adequately implements and mainstreams a solid strategic framework to prevent and counter corruption, based on a new multiannual anticorruption strategy in line with European standards. This should translate into **substantial improvements towards prevention and combatting of corruption across the most vulnerable sectors and beyond, as relevant**.
- Adopts and effectively implements legislation on **financing of political parties and election campaigns** in line with European standards.

Montenegro protects fundamental rights both in law and in practice and is fully prepared to implement the European Charter of Fundamental Rights and other relevant EU *acquis* upon accession. In particular, Montenegro will meet this benchmark once it:

- Ensures the effective implementation and enforcement of the rights and freedoms set out in the **European Convention on Human Rights**, its protocols, and the jurisprudence of the European Court of Human Rights.
- Implements the recommendations of the **European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT)** and ensures appropriate and swift judicial follow up in cases of ill-treatment should these occur.
- Ensures effective protection of **freedom of expression** and media by implementing a reformed legislative and regulatory framework including as regards transparency of media ownership, in line with the EU *acquis*, European standards, best practices and recommendations, as well as tackling effectively foreign information manipulation and interference.
- Establishes a credible track record implementing provisions on **non-discrimination, gender equality** and combating gender-based violence, protection of persons belonging to minorities and cultural rights, in line with the EU *acquis* and European standards and provides effective mechanisms for redress and assistance to victims.
- Implements a **de-institutionalisation strategy for persons with disabilities**, as well as a strong **child protection** system grounded in community-based care, with the best interest of the child as the guiding principle, including as regards children deprived of parental care or with disabilities.
- Ensures fair restitution proceedings for **property rights** within a reasonable time and full independence of the Regional Restitution Commissions.

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Monitoring of progress in the alignment with and implementation of the *acquis* will continue throughout the negotiations. The EU underlines that it will devote particular attention to monitoring all specific issues mentioned above – including through peer-review missions – with a view to ensuring Montenegro's administrative capacity.

Particular consideration needs to be given to the links between the present chapter and other negotiation chapters as well as other issues under the fundamentals cluster. The EU notes in particular that chapter 23 – Judiciary and Fundamental Rights is in essence about establishing and anchoring a democratic system based on the rule of law, reflecting also the values listed in Article 2 of the Treaty on the European Union. Since there is a strong nexus between these rights and freedoms, the rule of law and the democratic transformation of Montenegro, a final assessment of the fulfilment of the closing benchmarks will be done against an assessment of the functioning of Montenegro's democratic institutions and public administration.

The EU recalls that in line with the position of the European Union on the application of the revised enlargement methodology to the accession negotiations (CONF-MNE 1/21), once the interim benchmarks for chapters 23 and 24 have been met and closing benchmarks set, **the rule of law action plans will need to be updated**. In line with its commitments in this respect and priorities identified in the relevant policy dialogues with the EU, the EU also calls on Montenegro to address key issues as regards the functioning of democratic institutions and public administration reforms in a structured and strategic way including as appropriate through action plans. This will include Montenegro's ability to organise fair and free elections, the well-functioning of its parliament, which should be able to fully perform its core legislative and oversight functions, the existence of an enabling environment for civil society and the ability to ensure public administration reforms deliver concrete results.

A final assessment of the conformity of Montenegro's legislation with the *acquis* and of its implementation capacity can only be made at a later stage of the negotiations. In addition to the information the EU may require for the negotiations in this chapter, and which is to be provided to the Conference, the EU invites Montenegro to provide regular detailed written information to the Stabilisation and Association Council on progress in the implementation of the *acquis*.

In view of all the above considerations, the Conference will have to return to this chapter at an appropriate moment.

Furthermore, the EU recalls that there may be new *acquis* before the conclusion of the negotiations.

