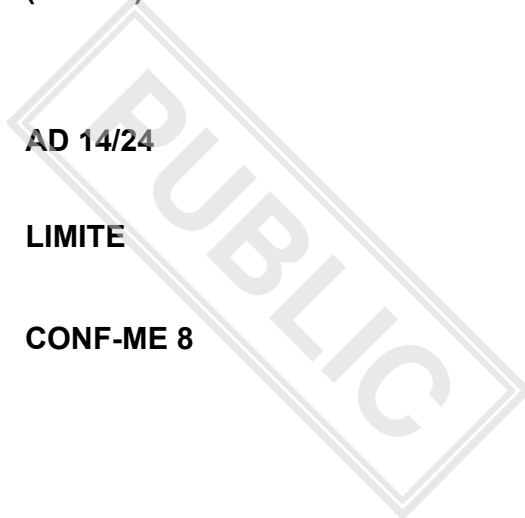


AD 14/24

LIMITE

CONF-ME 8



ACCESSION DOCUMENT

Subject: EUROPEAN UNION COMMON POSITION
Chapter 24: Justice, Freedom and Security

EUROPEAN UNION COMMON POSITION

Chapter 24: Justice, Freedom and Security

The EU agrees that Montenegro has, overall, met the interim benchmarks set in the opening European Union Common Position (CONF-ME 14/13). 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 24 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 *acquis* and European standards and its 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 8/13 accepted the *acquis* under chapter 24 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 14/13.

The issues covered by chapter 24 are essential for success on the EU path, belonging to the “fundamentals” of the Enlargement process. Consolidation of efforts related to the interim benchmarks must continue in order 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 key results are key aspects of the closing benchmarks set out in this position.

1. Legal and irregular migration

The EU invites Montenegro to fully align its legislation with EU requirements and strengthen its institutional capacity and to ensure full implementation and enforcement of the *acquis* in the field of legal and irregular migration. The EU underlines the importance of effectively managing mixed migration flows, including preparedness for increased arrivals, and invites Montenegro to establish a track record in this respect. In this context, the EU recalls the need to ensure effective border management, including data collection, sufficient border and reception capacities including for vulnerable groups (also relevant for asylum), and achieving concrete results combatting irregular migration, including prosecuting and dismantling networks of migrant smuggling. The EU underlines the importance of effective international cooperation including on returns and readmissions, which requires maintaining functional return mechanisms. The EU invites Montenegro to conclude bilateral readmission agreements with countries of origin of irregular migrants.

2. Asylum

The EU calls on Montenegro to ensure there is a functioning asylum system in place in line with the EU *acquis*. The EU underlines the importance of preparedness for Montenegro that it may increasingly become a destination rather than a transit country through adequate staffing of the Directorate of Asylum and reception capacity. The EU invites Montenegro to establish a track record in handling requests for international protection in an effective and timely way and grant protection to those who need it. The EU invites Montenegro to have the infrastructure in place to connect to the EU asylum fingerprint database (EURODAC) and work towards-alignment with the Pact on Migration and Asylum before accession. The EU invites Montenegro to cooperate smoothly with the EU Agency for Asylum.

3. Visa Policy

The EU calls on Montenegro to fully align its visa policy to that of the EU, in particular the lists of countries whose citizens are under a visa obligation and those who are exempted of that obligation with EU lists. It must end the practice of issuing seasonal visas. The EU invites Montenegro to continue to prepare for its future connection to the EU Visa information System (VIS). The EU further invites Montenegro to ensure appropriate administrative and enforcement capacity for its visa policy.

4. Schengen and external borders

The EU calls on Montenegro to fully align its legislation in the field of external borders and Schengen with the *acquis*. The EU underlines the importance of effective border checks and surveillance and integrated border management, bolstered by adequate capacity and infrastructure. The EU invites Montenegro to cooperate smoothly with the European Border and Coast Guard Agency, including under the Status Agreement between Montenegro and the EU. The EU recalls the importance of taking the necessary steps in view of accession to implement the relevant parts of the Schengen *acquis* upon accession or where relevant upon accession to the Schengen area – to connect to the relevant systems including the Schengen Information System (SIS), the VIS, the establishment of the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS), and the Registered Travellers Programme (RTP).

5. Judicial cooperation in civil and criminal matters

The EU invites Montenegro to fully align its legislation with the EU *acquis* in civil and criminal matters and ensure the capacity to handle requests for mutual legal assistance. The EU underlines the importance for Montenegro to ensure the appropriate administrative capacity to be able to participate upon accession in agreements on extradition and mutual legal assistance concluded by the EU with third countries, to effectively cooperate with EU Member States to obtain evidence in relation to criminal matters, to issue and act upon European Arrest Warrants, to transfer prisoners, to apply the principle of mutual recognition to alternatives to custody and measures facilitating early release, to apply procedures and legislation regarding the confiscation and freezing of criminally acquired assets and to apply procedures to ensure penalties incurred abroad are effectively collected. The EU also invites Montenegro to put in place all administrative and technical conditions, including preparing the IT environment, to be connected to the European Criminal Records Information System (ECRIS) upon accession. The EU invites Montenegro to ensure smooth cooperation with the European Union Agency for Criminal Justice Cooperation (EUROJUST) and the European judicial network in criminal matters (EJN).

6. Police cooperation and fight against organised crime

The EU urges Montenegro to step up its efforts to ensure robust and effective systems are in place to prevent and tackle organised crime. In this context, the EU recalls the importance of ensuring a solid legal framework for the prevention of organised crime and calls on Montenegro to ensure alignment with the EU *acquis*, European and international standards. The EU calls on Montenegro to adequately implement and mainstream a solid **strategic framework** to prevent and counter organised crime based on strategic documents in line with European standards.

The EU underlines that the justice system needs to demonstrate a strong, coherent, and unambiguous response to the issue of infiltration of corruption and organised crime into state structures and economy. Moreover, the EU calls on Montenegro to establish a track record of investigations, prosecutions, and final convictions in all fields of serious and organised crime, including trafficking in human beings, drugs, small arms and light weapons, child sexual abuse online and offline, cybercrime, money laundering and tobacco smuggling. Furthermore, the EU calls on Montenegro to strengthen its law enforcement capacity to deal with serious and organised crime related investigations. The EU recalls that this should include a pro-active and effective approach including to international cooperation on the fight against organised crime, including with EU Member States, relevant EU agencies and other international partners. The EU underlines the importance of addressing lengthy criminal procedures, applying dissuasive sanctions, and limiting plea bargain agreements to exceptional cases.

The advanced operational capacities of the key institutions in the fight against organised crime are crucial key. The EU invites Montenegro to continuously strengthen its specialised structures (the High Court of Podgorica), the Special Prosecution Office (SPO), the Special Police Unit (SPU), the Financial Investigations Unit of the Police (FIU) and the Asset Recovery Office (ARO) including providing all required means (including decent housing conditions, specialised and sufficient staff and budget, adequate equipment, and access to required databases) to effectively cope with its workload and more pro-actively conduct investigations and prosecute cases of organised crime. The EU calls on Montenegro to ensure merit-based appointments and procedural safeguards against undue political interference in law enforcement authorities.

The EU invites Montenegro to align its legal framework with European and international standards on anti-money laundering and counter-terrorism financing. The EU underlines the importance for Montenegro to bring its legal framework in line with all FATF standards following the recent recommendations of MONEYVAL in its evaluation report on Montenegro.

In line with the recommendation from the MONEYVAL Mutual evaluation report adopted in December 2023, the EU calls on Montenegro to establish a track record in seizure and final confiscation of assets, using financial investigations for tracing and confiscating proceeds of criminal activity in a consistent and credible way. The EU underlines the need to establish a credible and consistent practice of launching parallel financial investigations when dealing with organised crime, corruption, white collar crimes and money laundering. The EU recalls the need to effectively investigate and prosecute money laundering. The EU underlines the importance of ensuring that final convictions for organised crime, particularly related to drugs trafficking, are consistently accompanied by decisions on the confiscation of unlawfully gained assets. The EU underlines the need for ensuring a fully operational asset recovery office responsible for identifying and tracing criminal assets and to strengthen the supervision of high-risk non-financial businesses and professions. Witness protection should be ensured.

The EU invites Montenegro to put in place a comprehensive, gender-specific and victim-centred legal and policy framework, aligned with the EU *acquis*, in order to prevent and combat trafficking in human beings, with a track record of pro-actively detecting, identifying and providing protection, assistance and support to victims and potential victims, in dismantling networks in trafficking in human beings and in investigating, prosecuting and convicting the traffickers.

The EU invites Montenegro to ensure smooth cooperation with the European Union Agency for Law Enforcement Training (CEPOL), European Union Agency for Law Enforcement Cooperation (Europol) and the European Public Prosecutor's Office (EPPO). Furthermore, the EU invites Montenegro to align its legal framework with the EU *acquis* on the secured exchange of information and data between law enforcement authorities.

7. Fight against terrorism

The EU invites Montenegro to ensure that its anti-terrorism policy is in line with the EU *acquis* and is effectively implemented. The EU underlines that anti-terrorism policy must be guided by the principles of anticipation, prevention, protection, and response. The EU urges Montenegro to implement the upgrade of the bilateral arrangement under Joint Action Plan on Counter Terrorism for the Western Balkans, that is meant to address the causes of radicalisation, violent extremism, and terrorist recruitment, also online, protect citizens and infrastructure, ensure critical entities resilience, reduce vulnerability to attacks and hinder terrorists' capacity to plan and organise attacks, including through pro-actively identifying and depriving terrorists of their financial means, by putting in place the necessary infrastructure to prepare, manage and minimise the consequences of a terrorist attack, and by addressing terrorist content online.

Furthermore, the EU invites Montenegro to strengthen its law enforcement capacity to deal with extremism and terrorism-related investigations.

8. Cooperation in the field of drugs

The EU invites Montenegro to fully align its legislation with the EU *acquis* in the area of drugs, including drug precursors, and to closely cooperate with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA (future European Union Drugs Agency (EUDA))). The EU invites Montenegro to ensure appropriate enforcement capacity and to establish a track record of investigations, prosecutions, and final convictions in the field of drug-related crime, including drugs seizures and destruction and confiscation of related assets. The EU underlines the importance of adopting and implementing an overarching national drugs strategy and action plans in line with relevant EU strategies and action plans and through correctly collecting and reporting on all relevant indicators and contributing to EMCDDA/EUDA-led research. The EU recalls the need to establish a well-functioning and sufficiently resourced National Early Warning System and operationalise the National Drugs Observatory/ National Focal Point.

9. Counterfeiting of the Euro

The EU invites Montenegro to fully align its legislation with the *acquis* on the suppression of counterfeit currencies and to ensure the necessary implementation and enforcement capacity for dealing with counterfeit money, including preparing for cooperation with other EU Member States, including customs cooperation.

* * *

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 Justice, Freedom and Security, in particular on those issues set out above, and the priorities identified in the 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 delivers sustained, substantial results in the field of legal and irregular migration, on asylum, and on issues related to the Schengen acquis, visa policy and controlling its external borders. In particular, Montenegro will meet this benchmark once it:

- Establishes a solid track record of effectively managing **mixed migration flows**, including proven ability to properly control its borders, sufficient border and reception capacities, and concrete results combatting **irregular immigration**, prosecuting and **dismantling networks of migrant smuggling**, and effective international cooperation, including on return and readmission, including effective return mechanisms.
- Ensures there is a **functioning asylum system** in place in line with EU *acquis*, secures continuous adequate staffing of the Directorate of Asylum, and ensures appropriate reception capacity.
- Fully aligns its **visa policy** with that of the EU, in particular ending the practice of issuing seasonal visas and amending the lists of countries whose citizens are under visa obligation and those whose citizens are exempted of that obligation when entering; both lists must be made identical with those in force in the EU.

Montenegro has in place robust and effective systems to tackle and prevent organised crime, guided by the principles of prevention, protection, and responding. In particular, Montenegro will meet this benchmark once it:

- Aligns **its legal framework** with European and international standards on the fight against organised crime and cooperation in the field of drugs, and adequately implements and mainstreams a solid **strategic framework** to prevent and counter organised crime and drug abuse, based on strategic documents in line with European standards.
- Establishes a **solid and sustained track record of investigations, prosecutions, and final convictions** in all fields of serious and organised crime and money laundering (including stand-alone offences), including a pro-active and effective approach to **international cooperation**. This will require adequate resources and efforts to tackle lengthy procedures. 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 organised crime and money laundering, and with a fully operational asset recovery office responsible for identifying and tracing criminal assets with adequate human and financial resources.
- Ensures that final convictions for drugs trafficking are consistently accompanied by decisions on the confiscation of unlawfully gained assets.
- Adequately implements a comprehensive, gender-specific and victim-centred legal and policy framework in place to prevent and combat **trafficking in human beings**, fully in line with the EU acquis; with a solid track record of pro-actively detecting, identifying and providing accommodation, protection, assistance and support to (potential) victims, with substantial progress in dismantling networks of trafficking in human beings and in investigating, prosecuting and convicting the traffickers.

Montenegro ensures that anti-terrorism policy is in line with the EU acquis, guided by the principles of prevention, protection, and responding, and is effective in practice, as well as aligns its legal framework with European and international standards on anti-money laundering and counter-terrorism financing.

* * *

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 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.**

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 all 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 detailed written information regularly 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.
