

AD 17/25

LIMITE

CONF-ME 4

**ACCESSION DOCUMENT**

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Subject: EUROPEAN UNION COMMON POSITION  
– Chapter 4: Free Movement of Capital

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## EUROPEAN UNION COMMON POSITION

### **Negotiating Chapter 4: Free Movement of Capital**

This position of the European Union is based on its general position for the Accession Conference with Montenegro (AD 23/12 CONF-ME 2) and is subject to the negotiating principles endorsed therein, in particular:

- any view expressed by either party on a chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;
- agreements - even partial agreements - reached during the course of the negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established;
- the requirements set out in points 24, 28, 41 and 44 of the Negotiating Framework.

The EU encourages Montenegro to continue the process of alignment with the EU *acquis*, noting that additional *acquis* may enter into force before accession, to ensure its effective implementation and enforcement, and develop already before accession, policies, and instruments as close as possible to those of the EU.

The EU notes that Montenegro, in its negotiating position AD 5/14 (CONF-ME 1) and its addendum AD 5/14 ADD 1 (CONF-ME 1), accepts the *acquis* under chapter 4 as in force on 2 October 2025, and that it declares that it will be ready to implement it by the date of its accession to the European Union.

## **General framework for the free movement of capital**

The EU acknowledges that Montenegro has established a regime for the movement of capital that is free of restrictions and that largely complies with the principles enshrined in Article 63 of the Treaty of the Functioning of the European Union. The right for foreigners to hold property in Montenegro is protected under the Constitution.

The EU takes note that Montenegro's Foreign Investment Law grants national treatment to foreign investors and allows for unrestricted transfer and repatriation of profits and dividends for foreign investors. The legislative and institutional framework do not set any limits on foreign control or restrictions on the right to private ownership for foreigners. Amendments made to the Law on Foreign Investments have removed restrictions that existed at the time of the opening of the chapter for investments in local companies.

The EU observes that the Law on Voluntary Pension Funds contains a territorial restriction regarding investment in immovable property. The EU invites Montenegro to remove this provision before the accession and calls on Montenegro to present a timeline to that effect.

Regarding the holding of land by foreigners, the EU welcomes the amendments to Montenegro's Law on Ownership Rights introduced in March 2025. The EU notes that all restrictions will have to be lifted at the time of accession to ensure equal treatment of EU citizens regarding the acquisition of residential and commercial properties and of agricultural lands. The EU notes that the Law on Agricultural Land maintains a general prohibition on the acquisition of State agricultural land by nationals and foreigners alike.

The EU notes that Montenegro intends to maintain the restrictions on the acquisition of real estate in relation to third countries that are in force in national legislation. The EU recalls that Article 64 of the TFEU grants Member States the right to retain such restrictions vis-à-vis third countries, notably on direct investment in real estate, which existed on 31 December 1993 and are still in force. The EU acknowledges that the Accession Treaty with Montenegro will set the date of 22 June 2009 as the reference date, in line with Article 64(1) of the TFEU, in relation to acquisition of real estate in Montenegro by natural and legal persons from third countries. The EU notes that the differential treatment vis-à-vis third countries, which the adoption of a revised date for Montenegro entails, is limited and represents an overall liberalisation, thus fulfilling the spirit of the Treaty with respect to freedom of movement of capital and payments, not only within the EU, but also in respect to operations with third countries.

The EU recalls that, upon accession, Montenegro should ensure that the treatment granted to the EU and Montenegrin nationals under the 2009 Law on Ownership Rights is also extended to nationals of the European Economic Area. The EU recalls that restitution of property rights remains an important part of chapter 23.

## **Payments**

The EU notes that Montenegro's regulatory and legislative framework on payments is largely aligned with the *acquis*. The EU further notes that Montenegro has made significant efforts to fully align its legislation with the Payment Services Directive 2 (Directive 2015/2366/EU – PSD2) and Regulation establishing technical and business requirements for credit transfers and direct debits in euro (Regulation 2012/260/EU - SEPA Regulation). This alignment has allowed Montenegro to join the geographical scope of the Single Euro Payments Area (SEPA) in November 2024.

In this respect, the EU notes that the Central Bank of Montenegro and all domestic banks were enlisted in the SEPA payment schemes as of 13 May 2025, and that SEPA payments in Montenegro became operational on 6 October 2025. The EU welcomes these developments, which extend the benefits of the EU integration to Montenegrin citizens and businesses even before the accession.

The EU invites Montenegro to complete its alignment with PSD2 and its secondary legislation, notably Commission Delegated Regulations 2018/389/EU and 2022/2360/EU as well as Commission Implementing Regulation 2019/410/EU and Commission Delegated Regulation 2019/411/EU prior to the accession. The EU further invites Montenegro to ensure that all country-specific, regulatory provisions requested from the national authorities under SEPA Regulation and Cross-Border Payments Regulation (Regulation 2021/1230/EU - CBPR) are adopted at least six months before accession.

The EU further observes that CBPR contains various obligations imposed on the payment service providers that require technical preparation and implementation prior to accession. The EU invites Montenegro's authorities to work with the payments industry to ensure that all relevant provisions of CBPR are implemented from the first day of the accession. The EU notes in this context that the Central Bank of Montenegro and domestic banks have already agreed to reduce and cap the fees applicable to SEPA transactions as of 6 October 2025, preparing to fully end any differentiation between national and cross border payments in euro.

The EU notes that Montenegro is not yet aligned with the Instant Payments Regulation (IPR - Regulation (EU) 2024/886), which also introduces amendments to PSD2, CBPR and SEPA Regulation. The EU invites Montenegro to ensure alignment with the Instant Payment Regulation, that its payment industry is prepared to process instant payments, implement the verification of payee service, and that it makes the necessary changes relating to sanction screening before the accession.

The EU notes that under the Law on the Development Bank of Montenegro, the Development Bank is entitled to provide payment transactions, even though it is not subject to the same legal obligations as credit institutions or to the provisions of the Montenegrin law aligned with PSD2, which specify the legal framework for payments. The EU emphasises that this is not compliant with the EU *acquis* and needs to be amended as soon as possible to ensure the Development Bank has the same legal and regulatory obligations as other financial institutions. It further is essential for Montenegro to ensure that the Law on the Development Bank complies with all *acquis* under other chapters of the accession negotiations.

### **Fight against money laundering and financing of terrorism**

The EU notes that Montenegro has largely aligned its legislation with the existing EU *acquis* as regards anti-money laundering and countering the financing of terrorism (AML/CFT). The EU welcomes legislative and regulatory changes introduced in recent years, notably amendments to the Law on Prevention of Money Laundering and Terrorist Financing from March 2025, introducing stricter regulations for crypto assets, gambling operators, and beneficial ownership transparency.

The EU underlines that there remain some gaps between the national legislation in force and the EU laws. These gaps pertain a) to the definition of terrorism financing, which is not fully aligned with the EU definition b) data protection and record retention, with periods of record retention longer in Montenegro than authorised under EU law; and c) sanctions, with the minimal sanctions imposed by Montenegro being much lower than the ones required under EU law. The EU calls on Montenegro to address these gaps and modify its legislation as soon as possible, to ensure full alignment no later than the 1 July 2026. The EU notes that the implementation of the AML/CFT *acquis* needs to improve and recommends that Montenegro builds a solid track record of proper implementation and enforcement of this legislation before the accession.

The EU notes that Montenegro has adopted in the past strategies for the prevention and combating of terrorism, money laundering and terrorist financing (including the current strategy for 2022-2025) and that it intends to develop a new strategy in the upcoming period. The EU invites Montenegro to adopt the new strategy without delay, together with an action plan, and to ensure a close monitoring and reporting of its implementation.

The EU welcomes the good cooperation of Montenegro with the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) and with the Financial Action Task Force (FATF) in recent years. The EU expects Montenegro to address systematically their recommendations, in particular those from MONEYVAL's next round of evaluation.

The EU notes that Montenegro has a functioning Financial Intelligence Unit (FIU), linked to the Police Department in the Ministry of Interior, and with operational independence guaranteed by law. The EU notes that the FIU is a member of the Egmont group, the international organisation where FIUs can exchange expertise and financial intelligence to combat money laundering, terrorist financing, and associated crimes. The EU welcomes that there has been an increase of Suspicious Transaction Reports to the FIU in recent years. The EU notes that some of the positions of the FIU remain vacant and calls on Montenegro to fill these vacancies before accession and continue to train staff.

The EU welcomes the fact that supervisory agencies of financial institutions (the Central Bank of Montenegro, the Capital Market Authority, the Insurance Supervision Agency and the Agency for Electronic Communications and Postal Services) have stepped up controls in recent years. The EU urges all supervisory agencies to reinforce their enforcement capacities. The EU notes nonetheless that, despite recent improvements, the number of investigations, prosecutions and convictions of money laundering cases remains low. The EU calls on Montenegro to establish a solid track record on enforcement of the newly changed and reinforced AML/CFT legislation. The EU calls on all Montenegro's authorities to make consistent use of financial investigations to trace and confiscate criminal proceeds, focusing on high-risk crimes, organised crime and assets moved abroad. As one of the main supervisory agencies in the fight against money laundering, it is of utmost importance that the independence of the Central Bank of Montenegro is preserved and strengthened, in line with the requirements set in the closing benchmarks for chapters 9 and 17 of the accession negotiations.

The EU notes that there are deficiencies, identified by MONEYVAL, in the supervisory coverage on AML/CFT for some of the designated non-financial business or professions such as lawyers and notaries. Various designated non-financial business or professions are not subject to any licensing, registration or professional accreditation or entry requirements. The EU expects Montenegro to step up efforts to ensure a broad understanding of risks linked to money laundering within the designated non-financial business or professions and to ensure their robust supervisory coverage. The EU urges Montenegro to present a strategy towards full alignment and track record of enforcement and will closely monitor the implementation of this strategy.

Overall, the EU calls on Montenegro to fully align with European and international standards on anti-money laundering and counter-terrorism financing and to continue building a solid track record of implementation and enforcement of the legislation and associated regulatory measures under chapters 4 and 24 of the accession negotiations. The EU will closely monitor the establishment of this track record. Special consideration needs to be given to the strengthening of administrative capacity in the area of anti-money laundering, the fight against financing of terrorism and to the supervision of non-financial entities, businesses and professions.

### **Strengthening of administrative capacity**

The EU notes that Montenegro has an adequate regulatory and institutional framework for movement of capital, payments and AML/CFT purposes. Regarding capital movements, the Central Bank of Montenegro and the Ministry of Finance are the main policy making and regulatory institutions. Also, the Capital Market Authority and the Insurance Supervision Agency have important responsibilities notably in relation to the capital transactions of financial institutions and insurance companies.

In relation to the payment systems, the EU notes that the Central Bank of Montenegro is the main public institution in charge of regulating and overseeing the system. It works closely with the national financial institutions. The EU notes that the Central Bank conducts regular controls of the national payment service providers and that it systematically takes action when discovering non-compliance events. The EU invites Montenegro to continue regular oversight of the payment institutions and to remain prudent in licensing new payment institutions and electronic money institutions.

In the area of anti-money laundering/countering the financing of terrorism, the EU notes that many institutions have specific responsibilities under law, notably the Central Bank of Montenegro, the Capital Market Authority of Montenegro, the Insurance Supervision Agency, the Games of Chance Administration, the Tax Administration, the administration responsible for digital property, the Ministry of Justice, the Ministry of Interior, the Police Financial Intelligence Unit, the Agency for Electronic Communications and Postal Services and the Bar Association of Montenegro.

However, the EU underlines that the supervision of entities in the non-financial sector, such as real estate, accountants, games of chance operators, and traders, has been insufficient, notably in terms of corrective measures applied and should be stepped up to prevent illicit financial flows and criminals setting up office in these areas. The EU will monitor steps taken in this respect.

The EU further notes that many institutions face a situation of staff shortages. In some few cases, the EU considers that the current level of staffing is insufficient to ensure the proper monitoring of implementation of legislation and adequate supervision. This is particularly the case for the Ministry of Justice AML/CFT staff and the Games of Chance Administration.

The EU calls on Montenegro to urgently take measures and present a strategy to strengthen staffing levels in key departments in charge of anti-money laundering/countering the financing of terrorism. The EU underlines the importance for Montenegro to continuously strengthen supervisory authorities in these areas. The EU will monitor steps taken in this respect.

More generally and linked with the general policy on Public Administration Reform, the EU invites Montenegro to develop a merit-based recruitment policy, fill in the vacancies of existing 'systemised' positions, and develop a retention policy for qualified staff. The EU notes that these are key steps to properly enforce and implement its legislation.

The EU expects Montenegro to fully align its legislation in the areas of capital movement, payments, and AML/CFT with the *acquis*. It calls on Montenegro to pursue, before accession, resolute efforts to strengthen the administrative capacity in the area of anti-money laundering and countering the financing of terrorism. The EU emphasises the need for stepping up supervision, imposing corrective measures, improving coordination and exchange of information among all relevant institutions. The EU invites Montenegro to fill in current vacancies, in particular in the Ministry of Justice and in the Games of Chance Administration and further improve training and skills development among the AML/CFT staff.

The EU welcomes the efforts put into fighting against corruption in the various institutions relevant to this chapter and calls on Montenegro to continue broadening the regulatory and administrative provisions to improve staff integrity.

The EU will closely follow on the implementation of Montenegro's commitments, including adjustments to its legal system and administrative capacities.

Generally, the EU will pay particular attention to Montenegro establishing a solid track record of implementation.

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In view of the above considerations, the EU notes that, at this stage, this chapter does not require further negotiations.

Monitoring of progress in the alignment with and implementation of the EU *acquis* will continue throughout the negotiations. The EU underlines that it will devote particular attention to monitoring all specific issues mentioned above with a view to ensuring Montenegro's administrative capacity, its capacity to enforce the *acquis* in this chapter and the completion of the legislative alignment. Special consideration needs to be given to the strengthening of administrative capacity in the area of anti-money laundering and the fight against financing of terrorism. A final assessment of the conformity of Montenegro's legislation with the *acquis* and of its implementation capacity in all areas 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 regularly detailed written information to the Stabilisation and Association Council on progress in the implementation of the *acquis* and in the strengthening of its administrative capacity.

In view of all the above considerations, the EU will, if necessary, return to this chapter at an appropriate moment.

The EU notes that Montenegro, in its negotiating position AD 5/14 (CONF-ME 1) and its addendum AD 5/14 ADD 1 (CONF-ME 1), accepts the *acquis* under chapter 4 Free Movement of Capital as in force on 2 October 2025. The EU furthermore notes that Montenegro declares that it will continue the alignment process with the *acquis* and that it will be ready to implement it by the time of its accession to the European Union.

Furthermore, the EU recalls that there may be new *acquis* between 2 October 2025 and the conclusion of the negotiations.

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