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Chapter 24: Justice freedom and security

EUROPEAN UNION COMMON POSITION

Chapter 24: Justice, freedom and security

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;

as well as to the requirements set out in points 24, 28, 41, 42, 43 and 44 of the Negotiating Framework.

The EU encourages Montenegro to continue the process of alignment with the *acquis* 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 accepts the *acquis* under chapter 24 as in force on 23 May 2012 and that it will be ready to implement it by the date of its accession to the European Union.

1. MIGRATION

The EU takes note of the information regarding the legal framework in place and in particular the Law on Foreigners, the Law on Border Control and the Criminal Code as well as regarding the Strategy for the Integrated Migration management (2011 – 2016), which is currently being implemented through an Action Plan covering the period 2013 - 2014.

The EU further notes Montenegro's commitment to make a comprehensive legal analysis followed by an assessment of institutional, technical and training needs in the field of legal migration. The EU underlines the importance of Montenegro continuing its efforts to align its legislation with EU requirements and to strengthen the institutional capacity in order to ensure full and effective implementation and enforcement of the *acquis* in the field of legal migration.

The EU invites Montenegro to increase its efforts in relation to irregular migration, including through legal amendments to the law on foreigners, inter alia comprising provisions on return of illegal migrants. The EU invites Montenegro to increase of the capacity of reception and detention of irregular migrants and stepping up efforts to accommodate, protect and rehabilitate vulnerable groups of migrants. The EU recalls the need to comply with the timelines to open the new reception centre by the end of 2013 and to ensure the necessary financial means for covering running and maintenance costs. The EU underlines the need to guarantee that the centre is properly managed and that measures are taken to prevent and effectively punish the smuggling of people. The EU encourages Montenegro to ensure correct accommodation standards, to monitor the adequacy of the reception capacity and to train staff on the protection of the rights of legal and irregular migrants.

The EU takes note of Montenegro's commitment to complete a series of bilateral readmission agreements with its neighbours and third countries in line with the EU readmission agreements. The EU notes that Montenegro plans to conclude readmission agreements with Serbia and Turkey in 2013 (these two agreements were signed in April 2013), Iceland and Russia in 2014, Ukraine in 2015 and with Georgia in 2016. The EU notes that Montenegro will draft and adopt a new strategy and action plan in 2015 for the reintegration of repatriated persons in accordance with the European standards in this area.

2. ASYLUM

The EU takes note of the information regarding the planned new Law on Asylum and the relevant secondary legislation as well as of the detailed analysis planned prior to the adoption of this new law. The EU invites Montenegro to continue its efforts to ensure full legal alignment, implementation and enforcement at the date of accession.

The EU invites Montenegro to start preparations well in time for the application of the EURODAC system, the Dublin Regulation and to accede to Dublin-net, all immediately upon accession. In this respect, the EU takes note that Montenegro plans an analysis of all requirements needed for implementing the EURODAC and Dublin Regulations.

The EU notes that in the first eight months of 2013 over 2,154 asylum applications were filed in Montenegro, representing a substantial further increase compared to the same period in the previous year. It therefore underlines the importance for Montenegro to speed up its efforts to improve its administrative capacity to correctly apply asylum procedures. The EU underlines the need for extensive training for the staff of the Asylum Office and of the State Commission for Resolving Asylum Related Complaints as well as for the border police and the police, on identifying countries of origin of asylum seekers, refugee status determination, reasons for seeking asylum, supervision of voluntary returns, treatment of vulnerable groups, the respect of the non-refoulement principle and the rights of refugees in general. The EU invites Montenegro to deploy further efforts to strengthen the administrative capacity of all bodies involved in the asylum procedure, and to find innovative solutions to meet translation and interpretation needs.

The EU invites Montenegro to comply with the timelines to open the new asylum centre by the end of 2013 and to ensure the necessary financial means for covering running and maintenance costs. The EU stresses the importance of taking the necessary measures to avoid that asylum seekers fall victim of people smugglers. The EU encourages Montenegro to improve accommodation standards and to establish a monitoring mechanism to regularly review the adequacy of its capacity to accommodate asylum seekers.

The EU notes Montenegro's commitment to establish by the date of accession the required structures necessary to cooperate with the European Asylum Support Office.

3. VISA POLICY

The EU takes note of the information regarding the legal framework in place and in particular the Law on Foreigners and the Decree on the visa regime. The EU also notes that Montenegro intends to conduct a comprehensive needs analysis in preparation of adopting and implementing a Schengen Action Plan (SAP) which will also contain provisions related to the EU visa policy (including the EU Visa Regulation EC (No) 539/2001, the Visa Code and the Visa Information System). The EU invites Montenegro to ensure the necessary human and financial resources to effectively and correctly implement the SAP.

The EU underlines the need to take steps to phase out representation by non-EU countries and to conclude bilateral agreements with EU Member States on consular representation of Montenegro in third countries for the purpose of issuing visas for entering Montenegro. Equally, Montenegro is invited to cease issuing visas at the borders and to bring its policy in this respect in line with the EU *acquis*.

4. EXTERNAL BORDERS AND SCHENGEN

The EU takes note of the legislation in place and in particular the Law on Border Control. The EU recalls the need for Montenegro to continue the process of alignment in order to ensure full compliance with the *acquis* at the date of accession at the latest.

The EU notes that Montenegro adopted an Integrated Border Management (IBM) Strategy covering the period 2013 – 2016 and an accompanying action plan covering 2013. Since these are not yet entirely in line with the EU concept on IBM, the EU invites Montenegro to prepare and adopt a new IBM strategy in line with the EU concept (e.g. including the four-tier access control model and providing the Border Police's with adequate enforcement competences). The EU invites Montenegro to continue its preparations for correctly implementing the relevant *acquis*, with a particular emphasis on implementing arrangements for inter-agency cooperation at the border and on staff training.

The EU takes note of Montenegro's commitment to adopt and implement a Schengen Action Plan (SAP). It notes that the SAP will cover *inter alia* Border control (crossing internal borders, crossing external borders, airports, sea and river transport, cooperation between the stakeholders, risk analysis), Visas (common visa policy, single visa form, visa categories, requests for visa issuance, visa with limited territorial validity, consular representation abroad, cooperation, exchange of information and statistics, liability of the carriers), Police cooperation (cross-border police cooperation including formation of the SIRENE Bureau, exchange of information and statistics for the purpose of meeting the obligations of exchange of information with other Member States under the 24/7 principle), Judicial cooperation (legal assistance in criminal matters, application for the “*ne bis in idem*“ principle, extradition, transfer of sentenced persons), Schengen Information System and personal data protection, establishment of the national coordination centre for possible exchange of information with the EUROSUR (European Border Surveillance System). The EU notes Montenegro's commitment to establish a monitoring mechanism and report every six months on progress in the implementation of the SAP. The EU underlines the importance of ensuring that the necessary budgetary funds are secured for the implementation of the SAP, in particular as regards infrastructure, technical equipment and required human resources. The EU recalls that Montenegro's entry into the Schengen area will only take place following a Council decision to lift controls on persons at internal borders taken on the basis of the applicable Schengen evaluation of Montenegro's readiness, taking into account the Commission report confirming that Montenegro continues to fulfil the commitments undertaken in the accession negotiations that are relevant for the Schengen *acquis*.

The EU recalls that the Balkan region is a transit region for illegal migration, smuggling of drugs and other commodities and that combating these phenomena needs to be further improved. The EU notes that Montenegro has an established electronic system for surveillance of its blue border and part of its green border (with Albania). The EU underlines the importance of effective border control, including through the use of risk analysis and joint surveillance and control activities with neighbouring countries. It notes that Montenegro has concluded operational cross-border cooperation protocols on joint patrols with Albania, Bosnia and Herzegovina and Serbia and takes note of Montenegro's commitment to conclude the two remaining protocols with Croatia and Kosovo* as well as a protocol for operational co-operation with FRONTEX.

The EU takes note of Montenegro's intention to prevent cross-border traffic through alternative roads, in particular by rendering access to side roads impossible at the borders with all its neighbouring countries. It underlines the need to nevertheless increase patrol activities along the border and increases the use of technical surveillance means.

The EU underlines the importance of effectively preventing and fighting corruption – as a facilitator for organised crime - at the borders. It notes Montenegro's commitment to develop and implement a dedicated anti-corruption plan in this field in 2014 and to monitor its impact on a yearly basis.

5. JUDICIAL CO-OPERATION IN CIVIL, COMMERCIAL AND CRIMINAL MATTERS

Judicial co-operation in civil matters and commercial matters

The EU takes note of the information regarding the legislation in place and in particular the Civil Procedure Code, the Law on Resolution of Conflict of Laws with Regulations of Other Countries, the Law on Courts, the Law on Enforcement and Security, the Law on Bankruptcy and the Law on Mediation and other legal acts that regulate judicial co-operation in civil and commercial matters. The EU further takes note of the information regarding Montenegro's participation in multilateral and bilateral treaties in this field.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence

The EU underlines that further efforts are needed to ensure full alignment of Montenegrin legislation with EU requirements as regards judicial cooperation in civil and commercial matters. It takes note of the plan to adopt a law on Private International Law and of the planned analysis of the relevant legislation and its compliance with the *acquis* which should result in subsequent amendments to the Civil Procedures Code, the Law on Enforcement Procedure and other relevant procedural laws.

The EU invites Montenegro to continue to further strengthen its institutional framework in order to ensure full compliance with EU requirements at the date of accession at the latest. The EU notes in this regard Montenegro's intention to reinforce the capacity of the Ministries of Justice and of Labour and Social Welfare for handling international legal assistance requests and stresses the importance of conducting training on judicial co-operation (including for magistrates and for representatives from the legislative and executive authorities). The EU also underlines the importance of the on-going judicial reform process to ensure the efficiency and reliability of the court system, including in view of implementing the *acquis* in this area. The EU notes Montenegro's commitment to establish an information system that will keep records and statistics on international legal assistance and monitor the efficiency of treating international requests in this area.

Judicial co-operation in criminal matters

The EU takes note of the information regarding the legislation in place and in particular of the Law on International Legal Assistance in Criminal Matters and the Criminal Procedure Code, as well as other legal acts that cover the field of judicial co-operation in criminal matters in Montenegro. The EU further takes note of the information regarding Montenegro's participation in international conventions on co-operation in criminal matters as well as regarding bilateral agreements it has concluded.

The EU notes that Montenegro will conduct an analysis of the current domestic legislation and assess which further changes are required to comply with the relevant *acquis* upon accession. It also notes that amendments to the Law on International Legal Assistance in Criminal Matters will be prepared as well as to the Law on Courts (defining the courts authorised for issuing and implementing the European Arrest Warrant), in parallel with amendments to the Criminal Code for the purpose of harmonisation with the requirements from the European Arrest Warrants. It notes the fact that Montenegro will also define procedures for the application of the European Arrest Warrant.

The EU invites Montenegro to put in place well in time the necessary administrative capacity allowing it to correctly apply the *acquis* in this area. It underlines in this respect the importance of the ongoing judicial reform process to ensure the efficiency and reliability of the court system, including in view of implementing the *acquis* in this area. The EU therefore notes the fact that the above mentioned analysis will also cover the administrative capacity, the budget and training needs both within the Ministry of Justice as well as in the courts and prosecution offices, so as to enable direct cooperation between Montenegrin courts and courts from third countries. The EU takes note of the commitment of Montenegro to develop a specific training plan to be implemented by the Judicial Training Centre and the Police Academy for the benefit of judges, prosecutors, Ministry of Justice staff and where relevant, the police.

6. POLICE CO-OPERATION AND FIGHT AGAINST ORGANISED CRIME

Police co-operation

The EU takes note of the information on the legal framework in place and in particular of the Criminal Procedure Code, the Criminal Code, the Law on Internal Affairs, the Law on Personal Data Protection, the Law on Data Confidentiality and the Law on Ratification of the Strategic Cooperation Agreement with Europol and on Montenegro's co-operation with other regional bodies active in the field of police co-operation. The EU reminds Montenegro of the need to continue the alignment of legislation in the field of *police cooperation* in order to ensure full compliance with EU requirements at the date of accession at the latest. The EU invites Montenegro to further strengthen the administrative capacity required in the field of police cooperation, including staff training and investments in IT-equipment. In this respect the EU underlines that also for cross border police co-operation it is essential to have a secure domestic electronic communication system and robust data protection provisions. The EU notes Montenegro's commitment to make an analysis of the existing equipment, human resources and training needs in the field of police co-operation.

The EU takes note of the fact that the Agreement on Strategic Co-operation between Montenegro and Europol has entered into force, that the process leading to the signature of an operational agreement with Europol is on-going and that Montenegro is in the process of selecting a police liaison officer to be posted with Europol. The EU notes that Montenegro is a member of Interpol and notes Montenegro's participation in regional police co-operation initiatives. The EU notes the fact that the Police Academy will start training staff in *inter alia* the use of Europol and Interpol databases, respect of data protection standards and foreign languages. The EU notes that Montenegro will establish a 24/7 service for international police co-operation.

The EU notes the planned steps for Montenegro to prepare for cooperation with EU Member States on issues such as the security of football matches, the protection of public figures and cross border vehicle crime. The EU encourages Montenegro to continue to develop its police co-operation with EU Member States and to ensure that remaining steps are taken well in time before accession in view of the full implementation of the *acquis* in this area, including as regards the Prüm Treaty and the Swedish Initiative.

Fight against organised crime

The EU notes that organised crime remains an important challenge for Montenegro. The EU underlines that one of the keys to tackling organised crime is that it is – and that it is seen to be – systematically and successfully investigated and prosecuted and that these crimes are always followed up with financial investigations.

The EU takes note of the information on the laws in place and in particular regarding the Criminal Procedure Code, the Criminal Code, the Law on Internal Affairs, the Law on Personal Data Protection, the Law on Data Confidentiality, the Law on DNA, the Law on Management of Temporarily and Permanently Seized Assets, the Law on Witness Protection and the Law on Criminal Liability of Legal Persons. The EU also notes that Montenegro is implementing strategies against terrorism, financing terrorism and money laundering and on the fight against trafficking in human beings as well as an overarching national Strategy for the Fight against Corruption and Organized Crime (2010-2014) through an Action Plan covering the period 2013-2014. A National Commission composed of public officials and non-governmental representatives monitors its implementation. The EU invites Montenegro to pro-actively assess the effects of the implementation of the Strategy and Action Plan and to propose corrective measures where needed.

The EU notes the steps Montenegro intends to take to align the national legal framework with the *acquis*. It encourages Montenegro to make the pre-trial investigation phase more efficient and less rigid and therefore notes the planned amendments to the Criminal Procedure Code that will *inter alia* deal with precautionary freezing of assets, the use of Special Investigation Measures (SIMs), rules on dismissal of criminal charges, extending the actions the police can take during the preliminary investigation and the timeframe for pre-trial detention. The EU also underlines the need to improve the collection and analysis of statistical data on crime and its systematic use to define future policy priorities.

The EU takes note of the fact that Montenegro ratified the United Nations Convention against Transnational Crime and its Protocols and incorporated them in its legal framework. It will nevertheless pay particular attention to the effective implementation of the UN Convention on Transnational Organised Crime and its Protocols.

The EU encourages Montenegro to rationalize structures and foster specialization in the fight against organized crime. The EU takes note of measures proposed in this respect at the level of the courts (the merger of two specialized divisions within the High Court of Podgorica), the prosecution (through the establishment of a Special Prosecutor's Office including multi-disciplinary investigative teams) and in the Ministry of Interior (by establishing specialised organisational units on financial investigations, cybercrime, trafficking in human beings and terrorism). The EU underlines the importance for these new structures to be properly resourced, to have clearly defined responsibilities, to be well connected with relevant bodies and in particular to be able to work in a professional, independent and pro-active manner. The EU encourages Montenegro to also pay attention to equipment and training needs.

The EU also notes Montenegro's plan to conduct a comprehensive analysis of the organisational structure, capacities and competences of state authorities and public administration bodies in the fight against organised crime and corruption in view of increasing their investigation capacity. The EU attaches great importance to the fact that this should bring about a decisive improvement and address a number of structural weaknesses. The EU underlines that electronic access to relevant databases and a secure communication system are indispensable tools for law enforcement bodies to effectively co-operate and operate.

The EU encourages Montenegro to move beyond a purely criminal law approach to fighting organised crime and corruption, and calls on Montenegro to substantially strengthen its capacity to pro-actively conduct complex financial investigations. It notes Montenegro's intention to amend its legislation (Criminal Code, Law on Prevention of Money Laundering and Terrorism Financing) so as to bring it in line with the financial action task force (FATF) recommendations. It notes that Montenegro will provide dedicated training and raise awareness with public and private institutions functioning within the financial sector. The EU further takes note of the fact that more severe sanctions will be applied to authorities under reporting obligation that failed to report suspicious transactions and that the IT system for the Anti-Money Laundering Administration will be modernised in view of making the fight against money laundering more efficient. The EU invites Montenegro to prioritise money laundering investigations and to pay particular attention to large scale investments in real estate in tourism areas.

The EU takes note of Montenegro's commitment to adopt new legislation on asset seizure and to establish an Asset Recovery Office. The EU underlines the importance of these measures in the context of the effectiveness of dismantling organised crime groups and stresses the need for adequate strong legislation, allocating sufficient financial and human resources, providing the necessary specialised training and above all for ensuring the autonomy of a strong Asset Recovery Office.

The EU highlights the importance of smooth inter-agency co-operation. It notes Montenegro's intention to put in operation a secure electronic communication system allowing mutual access to data bases and exchange of information between (law enforcement) agencies, including the prosecution office. It further invites Montenegro to expand the use of SIMs (while ensuring that these are not abused) and to further roll out the concept of intelligence led policing, based on a well-developed risk and threat assessment capacity.

The EU takes note of Montenegro's plan to amend the legislation on witness protection. The EU underlines the importance of a well-functioning witness protection system, the allocation of sufficient and well-trained staff to the witness protection unit and the ability to offer a high degree of protection needed.

The EU takes note of the measures Montenegro has put in place to fight against human trafficking. It underlines the importance it attaches for Montenegro to continue its legal alignment with the *acquis* to strengthen its operational capacity, to foster overall a more pro-active attitude, to ensure that the human rights-based and victim-oriented approach is fully reflected and applied in particular through special attention for vulnerable groups, to provide training on the early identification of victims and to deploy preventive measures and increase awareness raising initiatives.

The EU notes that Montenegro adopted a new strategy for the control and reduction of small arms, light weapons and ammunition as well as its implementing Action Plan for the period 2013-2018 and that it will establish a co-ordination body to monitor its implementation. It invites Montenegro to bring its legal framework in this field further in line with the relevant *acquis*, in particular through amendments to the Law on Weapons and the Law on Administrative Fees.

The EU underlines the need for Montenegro to make further progress in stepping up its capacity to prevent and fight cybercrime. It notes the adoption of a National Cyber Security Strategy covering the period from 2013 - 2017 and of its Action Plan for 2013-2015, which also contain provisions on cybercrime. The EU invites Montenegro to take steps to align its legislation with the relevant *acquis* in this chapter. The EU notes that Montenegro ratified the Convention on Cybercrime (Budapest Convention) in 2010. The EU underlines the need to substantially improve the capacity in law enforcement agencies and the judiciary to deal with cybercrime.

7. FIGHT AGAINST TERRORISM

The EU takes note of the fact that Montenegro's legislation is only to a limited extent aligned with the EU *acquis* on terrorism and that Montenegro has adopted a Strategy for the fight against terrorism, financing terrorism and money laundering (2010-2014) and is implementing an accompanying Action Plan for the period 2013-2014. The EU also notes the information regarding Montenegro's participation in international Conventions and Protocols on combating terrorism.

The EU stresses that Montenegro needs to make further efforts to align with the *acquis* in order to be able to implement it upon accession. It therefore notes the planned steps to align with in particular with Framework decision 2002/475/JHA (2013), the EU Action Plan on enhancing the security of explosives (2013), Council Decision 2008/114/EC, Decision 2005/671/JHA and the EU Chemical, Biological, Radiological and Nuclear materials (CBRN) Action Plan (2015).

The EU notes that through the national action plan, training is planned for civil servants and law enforcement bodies working on preventing and fighting terrorism and that Montenegro will carry out a risk assessment and danger analysis capacity in 2014. It also takes note of that fact that the action plan foresees an analysis of the existing system for enhancing the security of warehouses and explosives storage facilities and the reconstruction of a number of warehouses.

The EU invites Montenegro to continue to strengthen its capacity in the fight against terrorism, in particular by adopting all remaining legal instruments, strengthening administrative and operational capacity and developing inter-agency coordination.

8. FIGHT AGAINST DRUGS

The EU takes note of the information regarding the legal framework in place and in particular the Criminal Code, the Criminal Procedure Code, the Law on Internal Affairs, the Law on Prevention of Drugs Abuse and the Law on Control of Production of and Trade in Substances Used in Manufacturing Narcotic Drugs and Psychotropic Substances as well as implementing legislation. The EU notes Montenegro's participation in international Conventions with regard to the fight against drugs. The EU invites Montenegro to proceed with the remaining legal adjustment in order to achieve full compliance with the EU *acquis* in this field at the date of accession at the latest.

The EU takes note of the information regarding Montenegro's Strategy on the Prevention of Drug Abuse (2013-2020) and the accompanying Action Plan (2013-2016), whose priorities are in line with the EU Drugs Strategy (2013-2020). It invites Montenegro to duly monitor its implementation and notes the evaluations foreseen in 2016 to prepare the next two year action plan (2017 – 2018) and in 2018 to prepare the action plan covering the period (2019 – 2020).

The EU takes note of Montenegro's cooperation with international organisations (e.g. UNODC and the Pompidou Group in the Council of Europe) in this respect. The EU also notes that Montenegro is participating in cooperation programmes with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). It notes the role of the specialised unit in the Ministry of Interior as well as of the State Council for the Prevention of Drug Abuse as the co-ordinating body to implement Montenegro's policy to prevent and fight drugs abuse. The EU also takes note of Montenegro's commitment to reinforce the National Focal Point with extra staff and training and its plan to establish a National Drugs Information System. The EU underlines the importance for Montenegro to cooperate with the EMCDDA including in the collection, processing and reporting of data and to demonstrate the active involvement of civil society organisations in drug demand reduction activities.

The EU underlines the importance of good inter-agency co-operation in this area, both on prevention of drug abuse and on the repressive side, including fighting drugs trafficking at the borders. It invites Montenegro to pay the necessary attention to improving the operational capacity and co-operation of the bodies involved. It takes note of Montenegro's intention to fill the remaining vacancies in the Drugs division of the Ministry of Interior, modernise their technical and operational equipment, provide training *inter alia* on secret surveillance, new types of drugs and cross border joint investigations and increase the number of joint police and custom controls at border crossing points (BCPs). The EU notes that Montenegro is preparing an operational cooperation agreement with Europol, which – when implemented – will be beneficial for its international co-operation in the field of fighting drugs trafficking.

The EU stresses the need to also focus operational means on the maritime border, including on the Port of Bar. It therefore notes the development and implementation of a new risk analysis capacity in the Port of Bar, an assessment of equipment needs, including of the joint teams (border police/customs) and additional training. The EU notes that Montenegro plans to grant certain investigative powers to its customs officers which should help in stepping up the law enforcement capacity at the Port of Bar. The EU underlines the need for a pro-active approach in the fight against drugs trafficking.

The EU notes that Montenegro regularly updates the list of drugs following international and European developments.

The EU encourages Montenegro to continue its efforts to strengthen the administrative and operational capacity, including by further strengthening drug abuse prevention policies and through increased coordination of administrative and enforcement bodies.

9. CUSTOMS CO-OPERATION

The EU takes note of the information regarding Montenegro's legal acts regulating customs cooperation and in particular the Custom's Law, the Law on the Customs Service as well as 27 bilateral agreements Montenegro has signed with EU Member States. The EU recalls the need for Montenegro to ensure full legal compliance at the date of accession at the latest. The EU underlines that customs officials in Montenegro face considerable challenges given the pressure of organised crime at the borders, for example as regards cigarette and drugs smuggling. It notes in this respect that Montenegro will amend the Law on Customs, the Criminal Procedure Code granting wider investigative powers and the rule book on the internal organisation of the Customs Administration¹. The EU also invites Montenegro to ensure that ethical standards within the Customs Administration and in particular at the borders are forcefully applied.

¹ The Rulebook on internal organisation of the Ministry of Finance, which also applies to the Customs Administration, has been adopted by the government on 13 June 2013. The most significant novelty introduced by the Rulebook is the establishment within the Custom Administration of a separate organisational unit – the Department for International Customs Cooperation and European Integration, which will be directly accountable to the Director of the Customs Administration.

The EU invites Montenegro to ensure the necessary administrative and institutional capacity to implement the Convention on Mutual Assistance and Cooperation between Customs Administrations (Naples II) and Council Decision 2009/917/JHA on the use of information technology for customs purposes upon accession. In this context, the EU underlines the need to ensure awareness and possible involvement of judicial and police authorities with regard to Articles 3 and 4, par. 7 of the Naples II Convention. The EU notes that Montenegro is preparing a strategy on customs IT infrastructure and will develop technical specifications in view of implementing Council Decision 2009/917/JHA.

10. COUNTERFEITING OF THE EURO

The EU takes note of the information regarding the legal framework for the prevention of counterfeiting of the euro and of Montenegro's intention to participate in the International Convention for the Suppression of Counterfeiting Currency. The EU takes note of the administrative and operational measures against counterfeiting by the Montenegrin National Bank and the Ministry of Interior (Economic crime division) and its plans to reinforce the latter. It also notes the co-operation agreements the Central Bank of Montenegro signed with OLAF and the European Central Bank and the operational agreement with Europol which is currently under preparation.

The EU invites Montenegro to fully align the legal and institutional framework for the fight against counterfeiting with the EU *acquis*. The EU in particular invites Montenegro to establish a National Central Office for the fight against Euro counterfeiting.

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In view of the present state of Montenegro's preparations, the EU notes that, 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, the following interim benchmarks would need to be met before the next steps in the negotiation process of the chapter Justice, freedom and security can be taken:

- Montenegro ensures a close and permanent monitoring of the implementation of the Action Plan in the field of Justice, Freedom and Security through a robust and multi-disciplinary mechanism, paying particular attention to the adequacy of financial resources, institutional capacity and the respect of set deadlines.

Montenegro enhances its efforts to ensure compliance with EU requirements in the field of legal and irregular migration. In particular,

- Montenegro conducts a comprehensive assessment of its legal, institutional, technical and training needs in the field of legal migration. Based on this, Montenegro clearly identifies steps for implementation and adopts a comprehensive training plan.
- Montenegro, as indicated in its Action Plan, opens at the end of 2013 the Reception Centre for irregular migrants, where migrant rights are safeguarded, and ensures its proper management through trained staff and the provision of adequate accommodation. Montenegro also monitors the adequacy of the reception capacity and puts in place adequate measures to prevent and sanction the infiltration of people smugglers in the Centre.
- Montenegro conducts a feasibility study which results in clear recommendations on steps needed to reinforce the capacity to accommodate, protect and rehabilitate vulnerable minors and other vulnerable groups of migrants.
- Montenegro negotiates and takes steps to conclude readmission agreements with third countries in line with the deadlines set and continues to smoothly implement the readmission agreement with the EU, including by respecting the deadlines for responding to individual requests.

Montenegro enhances its efforts to ensure compliance with EU requirements in the field of asylum. In particular,

- Montenegro conducts an impact assessment with the help of EU expertise and on that basis, adopts a new Law on Asylum in line with EU *acquis* and prepares an analysis of all requirements needed to implement upon accession the Eurodac and Dublin regulations.
- Montenegro provides an initial track record of an improved handling of its asylum procedure including, a reasonable length of its procedure in line with the EU practices, an improved recognition percentage, improved accommodation for, assistance to and integration of asylum seekers (including vulnerable categories) into society and a swift and correct handling of rejected applicants.
- Montenegro, as indicated in its Action Plan, opens at the end of 2013 the Asylum Centre, where asylum seeker rights are safeguarded, and ensures it is properly managed through trained staff and offers adequate accommodation. Montenegro monitors the adequacy of the reception capacity and puts in place adequate measures to prevent and sanction the infiltration of people smugglers in the Centre.
- Montenegro provides training on various key aspects of the EU asylum *acquis* and procedures.

Montenegro enhances its efforts to ensure compliance with EU requirements in the field of visa policy. In particular,

- Montenegro conducts a comprehensive needs assessment as a basis for the relevant parts of the required Schengen Action Plan.
- Montenegro ceases issuing visas at the borders, except in cases as stipulated by the *acquis*.

Montenegro enhances its efforts to ensure compliance with EU requirements in the field of Schengen and external borders. In particular,

- Montenegro adopts a Schengen Action Plan which will allow it to effectively prepare the steps needed (including as regards investment in infrastructure and equipment, staffing and training needs, institution building needs and legal steps) to implement the relevant parts of the Schengen *acquis* upon accession or where relevant upon accession to the Schengen area.
- Montenegro adopts and implements an amended Integrated Border Management (IBM) Strategy in line with the EU IBM concept.
- Montenegro makes good progress with the modernisation of infrastructure and equipment at border crossing points as well as in between them, including along the maritime border. Montenegro takes steps to close alternative roads with neighbouring countries.
- Montenegro addresses the twin-threats of corruption and organised crime at its borders through the implementation of a specific anti-corruption plan at the borders and provides an initial track record of an adequate follow up of detected cases.

Montenegro enhances its efforts to ensure compliance with EU requirements in the field of judicial co-operation in civil and criminal matters

- Montenegro conducts an analysis of and clearly defines further legal steps required to comply with the *acquis* in the field of judicial co-operation in civil and commercial matters.
- Montenegro puts in operation an information system that will keep records on international legal assistance and monitors the efficiency in treating international requests in the area of judicial co-operation in civil matters.
- Montenegro conducts an analysis of the administrative capacity, the budget and training needs required to implement the *acquis* in the field of judicial co-operation in criminal matters both within the Ministry of Justice as well as in the courts and prosecution offices and clearly defines further legal steps to fully comply with the *acquis* in this area, including as regards the European Arrest Warrant.

- Montenegro adopts and begins implementation of a training plan (including teaching foreign languages) in the field of judicial co-operation in criminal matters through the Judicial Training Centre and the Police Academy.
- Montenegro provides an initial track record of successfully handling requests for international judicial co-operation and applying bilateral agreements on judicial co-operation with other countries in the region.

Montenegro enhances its efforts to ensure compliance with EU requirements in the field of police co-operation and the fight against organised crime

- Montenegro concludes an operational agreement with Europol and implements it in a satisfactory manner.
- Montenegro puts in operation a secure electronic communication system which allows law enforcement agencies and the prosecution office to exchange data in an effective and secure manner.
- Montenegro ensures that the special investigative team in the special prosecution office has direct access to relevant databases.
- Montenegro conducts an analysis of the existing equipment, human resources and training needs in the field of police co-operation and ensures that the next steps are clearly defined.
- Montenegro continues to implement its strategy against human trafficking, developing a comprehensive and victim-oriented approach, closely monitors the effects it generates and takes remedial action where needed.
- Montenegro implements its national strategy for the fight against corruption and organised crime (2010 – 2014) and the Action Plan (2013 – 2014). It continuously monitors and assesses the impact of the various measures and proposes remedial action where needed.

- Montenegro revises its Criminal Procedures Code such that pre-trial investigations become more effective. Montenegro establishes a new special prosecution office and substantially improves the capacity of the police to run investigations into financial crimes. Montenegro ensures that both bodies are well connected to other relevant agencies and intelligence exchange and inter-agency co-operation substantially improves.
- Montenegro establishes an initial track record of efficient and effective investigation, prosecution and convictions in organised crime cases (including money laundering, trafficking in human beings, cybercrime, cigarette and drug smuggling and arms trafficking) and demonstrates strong political commitment to domestic and regional action against serious and complex organised crime cases.
- Montenegro takes measures aiming at rationalising (High Court) and fostering specialisation of key institutions (Special Prosecution Office and the Ministry of Interior) in the fight against organised crime.
- Montenegro brings its legislation in line with FATF recommendations, provides the necessary training on the concept of financial investigation and systematically conducts financial investigations in parallel with criminal investigations into corruption and other white collar crimes.
- Montenegro develops an effective system for witness protection through amending its Law on Witness Protection and providing specialised training, better equipment and more staff to the unit for witness protection.
- Montenegro adopts new legislation on asset recovery, establishes an Asset Recovery Office (ARO), recruits the management of the ARO on the basis of transparent and objective criteria with a focus on merit and professional skills, and provides an initial track record of an increased number of cases and higher amounts of criminal assets confiscated, including in cases of organised crime and money laundering.

- Montenegro provides an initial track record of an increasing number of suspicious transactions reported to the Financial Intelligence Unit (FIU) and ensures these are proactively used in criminal investigations.

Montenegro enhances its efforts to ensure compliance with EU requirements in the field of anti-terrorism

- Montenegro implements its anti-terrorism strategy and takes steps to align with the relevant *acquis* in accordance with the timelines set in its Action Plan.

Montenegro enhances its efforts to ensure compliance with EU requirements in the field of co-operation in the field of drugs

- Montenegro implements the National Strategy on the Prevention of Drug Abuse.
- Montenegro takes measures aimed at increasing the operational capacity and co-operation between bodies involved in the fight against drugs trafficking.
- Montenegro provides an initial track record of an increase of drugs seizures, including in the port of Bar and along the maritime border.
- Montenegro ensures that final convictions for drugs trafficking are systematically accompanied by decisions on the confiscation of unlawfully gained assets.

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. In line with the provisions of the negotiating framework, the EU indicates its intention to propose updated interim benchmarks, whenever it is duly justified. In this respect, any measures to adjust pre-accession assistance may only be taken in accordance with applicable rules and procedures. Particular consideration needs to be given to the links between the present chapter and other negotiation chapters. 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 regularly 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* between the opening and the conclusion of the negotiations.