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Subject: European Union Common Position
- Chapter 2: Freedom of movement for workers

EUROPEAN UNION COMMON POSITION

Negotiating Chapter 2: Freedom of movement for workers

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;
- as well as to 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 *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 negotiating positions AD 22/14 ADD 1 CONF-ME 17 and AD 9/26 CONF-ME 8, accepts the *acquis* under chapter 2 as in force on 30 March 2026, and that Montenegro declares that it will be ready to implement it by the date of its accession to the European Union.

Access to labour market

The EU notes that Montenegro has aligned its national legislation with Article 45 of the Treaty on the Functioning of the European Union establishing equal treatment of EU citizens and their family members as regards to access to employment, remuneration and other working conditions as well as with Directive 2004/38/EC, Directive 2014/54/EU and Regulation (EU) 492/2011. The EU notes that Montenegro's adoption of the amendments to the Law on Foreigners removes, upon the date of accession to the EU, all restrictions based on nationality with regard to the access to the labour market for EU citizens, ensuring equal treatment as regards to access to employment and also including the rights of accompanying family members. The EU also notes that the latest amendments to the Labour Law provide equal treatment in employment, remuneration and other working conditions. The aligned national legislation will start to apply by the date of Montenegro's accession to the EU. The EU expects Montenegro to ensure that no new or existing national legislation potentially contradicts Regulation 492/2011, thus enabling the full implementation of that Regulation as of the date of accession.

The EU takes note that Montenegro has designated the Protector of Human Rights and Freedoms as the national body tasked with promotion, analysis, support and monitoring of equal treatment of EU workers and members of their family without discrimination on grounds of nationality, unjustified restrictions or obstacles to their right to free movement. The EU expects that Montenegro ensures that the body has the relevant competences in line with Directive 2014/54/EU and the sufficient capacities to fulfil its missions.

The EU notes that the Law on Civil Servants and State Employees ensures the right to employment in civil service for EU nationals under the same conditions as Montenegrin nationals, in accordance with Article 45(4) TFEU and applicable case law of the Court of Justice of the European Union.

The EU notes the adoption of the Law on Voluntary Pension Funds, which aligns with the EU *acquis* on the supplementary pension rights.

The EU considers that transitional measures are required vis-à-vis Montenegro with regard to Article 1 to 6 of Regulation (EU) 492/2011, similar to the transitional measures applied to Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia. These transitional measures will concern the free movement of workers as set out in Article 45 TFEU and Articles 1 to 6 of Regulation (EU) 492/2011, as well as the freedom to provide services involving temporary movement of workers as set out in the first paragraph of Article 56 TFEU and in Article 1 of Directive 96/71/EC. It will consist, *mutatis mutandis*, of similar time limits, procedures, mechanisms and conditions as set out in the transitional arrangement on free movement of workers of the Accession Treaties regarding the accession of new Member States to the Union in 2004, 2007 and 2013.

However, the EU underlines that Montenegrin nationals and their family members must not be treated any less favourably than third-country nationals when the latter are exercising their rights under the *acquis*.

EURES

The EU notes that Montenegro adopted a dedicated Action Plan for the European network of Employment Services (EURES) (2025-2028) and started implementing key activities, namely the establishment of working groups, launching of the European Skills, Competences, Qualifications and Occupations (ESCO) process, strengthening human resources capacities, and initial IT preparations.

The EU expects Montenegro to ensure that no new or existing national legislation potentially contradicts Regulation 2016/589 (EURES) and Commission Implementing Decisions 2017/1255, 2018/170, 2017/1257, 2017/1256, 2018/1020 and 2018/2021, thus enabling the full operation of EURES as of the date of accession.

The EU welcomes the progress regarding the organisation and functioning of the National Employment Agency as the key institution for managing EURES. The EU expects Montenegro to complete all necessary technical, organisational, and administrative modifications, including appointing and training EURES advisers and the staff of the National Coordination Office (NCO) within the National Employment Agency by the date of accession. Additionally, IT upgrades must be implemented to enable Montenegro's full participation in the EURES network by the date of accession.

Co-ordination of social security systems

The EU notes the adoption of the Action Plan for the Coordination of Social Security Systems in Montenegro (2026-2028) which aims to establish a clear institutional structure and to strengthen administrative and financial capacities for the implementation of the *acquis* in particular in relation to Montenegro's participation in the Electronic Exchange of Social Security Information (EESSI).

The EU expects Montenegro to ensure that no new or existing national legislation contradicts Regulations 883/2004, 987/2009 and 1231/2010, thus enabling the functioning co-ordination of social security systems as of the date of accession.

The EU notes Montenegro's functional institutional framework for international coordination in social security, based on 26 bilateral agreements, including 16 with EU Member States. These agreements provide for administrative procedures, specialised organisational units and operational expertise for cross-border data exchange and the settlement of rights in various social security areas.

The EU expects Montenegro to continue introducing the necessary IT solutions for electronic exchange, training officials to operate in the EESSI environment, and defining the roles and responsibilities of participating institutions by the date of accession.

The EU underlines the importance for Montenegro to further strengthen the necessary administrative, technical and financial capacities and resources of competent authorities in view of the full and correct application of the *acquis* regarding co-ordination of social security systems by the date of accession to the European Union with particular attention to the technical and organisational capabilities to access and operate Electronic Exchange of Social Security Information (EESSI).

European Health Insurance Card

The EU notes that in preparation for the introduction of the European Health Insurance Card (EHIC), Montenegro has conducted an impact assessment, included EHIC in the Action Plan for the Coordination of Social Security Systems in Montenegro (2026-2028) and established the legal framework, institutional and administrative capacities, including organisational structures for international health insurance, with systematised posts and filled positions within the Health Insurance Fund of Montenegro. Activities to strengthen the administrative, organisational and IT capacities are underway to ensure effective implementation and operational readiness.

The EU expects Montenegro to further improve the existing Integrated Health Information System and adapt it for the issuance and application of the EHIC.

The EU emphasises the need for Montenegro to ensure that Health Insurance Fund of Montenegro has adequate technical capacities in terms of requisite infrastructure, effective data management and digitisation of the information system, and administrative resources in terms of organisational structure, internal work processes, training and development, and staffing levels.

The EU expects Montenegro to ensure by the date of accession appropriate budget allocation and conduct thorough cost assessments for the future reimbursement.

The EU expects Montenegro to ensure that no new or existing national legislation potentially contradicts relevant legal provisions on EHIC, in particular: Decisions No. S1 of 12 June 2009 concerning the European Health Insurance Card and No. S2 of 12 June 2009 concerning the technical specifications of the European Health Insurance Card, by the date of accession.

Labour inspectorate

The EU takes note of Montenegro's efforts to strengthen the institutional, human and technical capacities of its Labour Inspection, including the adoption of the Action Plan for Strengthening the Capacities of the Labour Inspection (2025-2027). The EU expects Montenegro to recruit additional labour inspectors in line with the Action Plan.

The EU expects Montenegro to ensure that no new or existing national legislation potentially contradicts Regulation 2019/1149 establishing a European Labour Authority (ELA), thus enabling the implementation of the regulation as of the day of accession.

The EU expects Montenegro to ensure the sufficient technical capacity for the entities envisaged to cooperate and support ELA are sufficiently trained and staffed to cover the specific tasks as set out in Article 4 of the ELA Regulation and the appointment structures (Member and the alternate to the Management Board as set out in Article 17 and the National Liaison Officer designated pursuant to Article 32) by the date of accession. The EU calls on Montenegro to foster fair labour mobility, including for posted third country nationals. The EU expects Montenegro to work closely together with the ELA.

In view of the above, the EU concludes that the requirements of the closing benchmark regarding access to the labour market, EURES, Social Security Coordination and EHIC set out in the EU common position (AD 25/17 CONF-ME 10) have been fulfilled.

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 ability to enforce and implement the *acquis* in this chapter and the completion of the legislative alignment. 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, 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 implementing the *acquis* and 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 positions AD 22/14 ADD 1 CONF-ME 17 and AD 9/26 CONF-ME 8, accepts the *acquis* under chapter 2 as in force on 30 March 2026. 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 30 March 2026 and the conclusion of the negotiations.

ANNEX X

List referred to in Article XX of the Act of Accession: transitional measures

X. FREE MOVEMENT OF PERSONS

Treaty on the Functioning of the European Union

31996 L 0071: Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1).

32004 L 0038: Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC ([OJ L 158, 30.4.2004, p. 77](#)).

32011 R 0492: Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union ([OJ L 141, 27.5.2011, p. 1](#)).

1. Article 45 TFEU and the first paragraph of Article 56 of the TFEU shall fully apply only, in relation to the freedom of movement for workers and the freedom to provide services involving temporary movement of workers as defined in Article 1 of Directive 96/71/EC, between Montenegro on the one hand and each of the present Member States on the other hand, subject to the transitional provisions laid down in paragraphs 2 to 13.

2. By way of derogation from Articles 1 to 6 of Regulation (EU) No 492/2011 and until the end of the four-year period following the date of accession, the present Member States may apply national measures, or those resulting from bilateral agreements, regulating access to their labour markets by Montenegrin nationals. Before the date of accession, Member States shall notify the Commission whether they will apply such measures as regards Montenegrin nationals. The present Member States may continue to apply such measures until the end of the seven-year period following the date of accession in accordance with the procedure set out in paragraph 3. In the absence of the notification referred above, Articles 1 to 6 of Regulation (EU) No 492/2011 shall apply as regards Montenegrin nationals in the present Member States concerned.

Montenegrin nationals legally working at the date of accession in a present Member State and admitted to the labour market of that Member State for an uninterrupted period of 12 months or longer, shall enjoy access to the labour market of that Member State but not to the labour market of other Member States that apply national measures.

Montenegrin nationals admitted to the labour market of a present Member State following accession for an uninterrupted period of 12 months or longer shall enjoy access to the labour market of that Member State but not to the labour market of other Member States that apply national measures.

The Montenegrin nationals referred to in the second and third subparagraphs shall cease to enjoy the rights referred to in those subparagraphs if they voluntarily leave the labour market of the present Member State in question provided that this Member State applies national measures.

Montenegrin nationals legally working in a present Member State that applies national measures who were admitted to the labour market of that Member State for a period of less than 12 months shall not enjoy the rights referred to in the second and third subparagraphs as long as national measures are applied.

3. Before the end of the four-year period following the date of accession, the Council shall review the functioning of the transitional provisions laid down in paragraph 2, on the basis of a report from the Commission.

On completion of this review, and no later than at the end of the four-year period following the date of accession, the present Member States that by virtue of paragraph 2 decided to apply national measures or measures resulting from bilateral agreements shall notify the Commission if they will continue to apply such measures up to the end of the seven-year period following the date of accession. In the absence of such notification, Articles 1 to 6 of Regulation (EU) No 492/2011 shall apply as regards Montenegrin nationals in the present Member States concerned.

4. Upon Montenegro's request, one further review may be held at any moment during the nine-years period from the date of accession. The procedure referred to in paragraph 3 shall apply and shall be completed within six months of receipt of Montenegro's request.
5. A Member State maintaining national measures or measures resulting from bilateral agreements at the end of the seven-year period referred to in paragraph 2 may, in case of serious disturbances of its labour market or threat thereof and after notifying the Commission, continue to apply these measures until the end of the nine-year period following the date of accession. In the absence of such notification, Articles 1 to 6 of Regulation (EU) No 492/2011 shall apply as regards Montenegrin nationals in the present Member State concerned.

6. During the nine-year period following the date of accession, those Member States in which, by virtue of paragraphs 2, 3, 4, 5 or 11, Articles 1 to 6 of Regulation (EU) No 492/2011 apply as regards Montenegrin nationals, and which issue work permits to nationals of Montenegro for monitoring purposes during this period, will do so automatically.
7. When a Member State in which, by virtue of paragraphs 2, 3, 4, 5 or 11, Articles 1 to 6 of Regulation (EU) No 492/2011 apply as regards Montenegrin nationals, undergoes or expects disturbances on its labour market which could seriously threaten the standard of living, public services (such as housing, healthcare, or social security) or level of employment in a given region or occupation, that Member State may resort to the procedures set out in the second and third subparagraphs of this paragraph until the end of the nine-year period following the date of accession.

A Member State referred to in the first subparagraph shall inform the Commission and the other Member States thereof and shall provide them with all relevant information justifying recourse to those procedures. On the basis of this information, the Member State may request the Commission to state that the application of Articles 1 to 6 of Regulation (EU) No 492/2011 is wholly or partially suspended in order to restore to normal the situation in that region or occupation. The Commission shall adopt a decision on the suspension and on the duration and scope thereof no later than two weeks after receiving such a request and shall notify the Council of its decision. Any Member State may, within two weeks from the Commission's decision, request the Council to annul or amend that decision. The Council shall act on such a request within two weeks by qualified majority.

A Member State referred to in the first subparagraph may, in urgent and exceptional cases, suspend the application of Articles 1 to 6 of Regulation (EU) No 492/2011, followed by a reasoned ex post notification to the Commission.

8. As long as the application of Articles 1 to 6 of Regulation (EU) No 492/2011 is suspended by virtue of paragraphs 2, 3, 4, 5 and 7 above, Article 23 of Directive 2004/38/EC shall apply in Montenegro with regard to nationals of the present Member States, and in the present Member States with regard to Montenegrin nationals, under the following conditions, so far as the right of family members¹ of workers to take up employment is concerned:

- the spouse of a worker and their descendants who are under 21 years of age or are dependants, legally residing with the worker in the territory of a Member State at the date of accession, shall have, upon accession, immediate access to the labour market of that Member State. This does not apply to family members of a worker legally admitted to the labour market of that Member State for a period of less than 12 months,
- the spouse of a worker and their descendants who are under 21 years of age or are dependants, legally residing with the worker in the territory of a Member State from a date subsequent to the date of accession, but during the period in which national measures are applied, shall have access to the labour market of the Member State concerned once they have been resident in the Member State concerned for at least 18 months or from the third year following the date of accession, whichever is earlier.

These provisions shall be without prejudice to more favourable measures, whether national measures or measures resulting from bilateral agreements.

¹ As defined in Article 2(2) and Article 3(2) of Directive 2004/38/EC.

9. Insofar as provisions of Directive 2004/38/EC take over the provisions of Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families² and may not be dissociated from those of Regulation (EU) No 492/2011 whose application is deferred pursuant to paragraphs 2, 3, 4,5 and 7 and 8, Montenegro and the present Member States may derogate from those provisions to the extent necessary for the application of paragraphs 2, 3, 4, 5 and 7 and 8.
10. Whenever national measures, or those resulting from bilateral agreements, are applied by the present Member States by virtue of the transitional provisions laid down above, Montenegro may maintain in force equivalent measures with regard to the nationals of the Member State or Member States in question.
11. Any present Member State applying national measures in accordance with paragraphs 2, 3, 4, 5 and 7, 8, 9, may introduce, under national law, greater freedom of movement than that existing at the date of accession, including full labour market access. Any present Member State applying national measures may at any time decide to apply Articles 1 to 6 of Regulation (EU) No 492/2011 instead. The Commission shall be informed of any such decision.
12. In order to address serious disturbances or the threat thereof in specific sensitive service sectors in the labour markets of Germany, the Netherlands and Austria, which could arise in certain regions from the transnational provision of services, as defined in Article 1 of Directive 96/71/EC, and as long as they apply by virtue of the transitional provisions laid down above, national measures or those resulting from bilateral agreements on the free movement of Montenegrin workers, Germany, the Netherlands and Austria may, after notifying the Commission, derogate from the first paragraph of Article 56 of the TFEU with a view to limiting in the context of the provision of services by companies established in Montenegro, the temporary movement of workers whose right to take up work in Germany, the Netherlands and Austria is subject to national measures.

² [OJ L 257, 19.10.1968, p. 13](#). Directive as last amended by the 2003 Act of Accession ([OJ L 236, 23.9.2003, p. 33](#)) and repealed with effect from 30 April 2006 by European Parliament and Council Directive 2004/38/EC ([OJ L 158, 30.4.2004, p. 77](#)).

The list of service sectors which may be covered by this derogation is as follows:

- in Germany:

Sector	NACE (*) code, unless otherwise specified
Construction, including related branches	45.1 to 4; Activities listed in the Annex to Directive 96/71/EC
Industrial cleaning	74.70 Industrial cleaning
Other Services	74.87 Only activities of interior decorators

(*) NACE: see 31990 R 3037: Council Regulation (EEC) No 3037/90 of 9 October 1990 on the Statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1)

- in the Netherlands

Sector	NACE (*) code, unless otherwise specified
Crop and animal production, hunting and related service activities	Division 01
Food sector	Division 10
Construction	Section F
Logistics	Division 49 Division 53
Distribution	Division 52
Employment	Division 78

(*) NACE: see 32006 R 1893: Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1)

- in Austria

Sector	NACE (*) code, unless otherwise specified
Horticultural service activities	01.41
Cutting, shaping and finishing of stone	26.7
Manufacture of metal structures and parts of structures	28.11
Construction, including related branches	45.1 to 4;
Security activities	Activities listed in the Annex to Directive 96/71/EC
Industrial cleaning	74.60
Home nursing	74.70
Social work and activities without accommodation	85.14
	85.32

(*) NACE: see 31990 R 3037: Council Regulation (EEC) No 3037/90 of 9 October 1990 on the Statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1)

In case of serious and persistent disturbances in specific sensitive service sectors which could arise in certain regions from the transnational provision of services, as defined in Article 1 of Directive 96/71/EC, any present Member State, as long as it applies by virtue of the transitional provisions laid down above, national measures or those resulting from bilateral agreements on the free movement of Montenegrin workers, may request the Commission to adopt a decision on the extension of the scope of the derogation from the first paragraph of Article 56 of the TFEU for the respective services sector and the duration thereof, after having provided it and the other Member States with all relevant information justifying the derogation. The Commission shall adopt a decision on the extension of the scope of the derogation and the duration thereof no later than four weeks after receiving such a request and shall notify the Council of its decision. Any Member State may, within two weeks from the Commission's decision, request the Council to annul or amend that decision. The Council shall act on such a request within four weeks by qualified majority.

To the extent that a Member State derogates from the first paragraph of Article 56 of the TFEU in accordance with the first, second and third subparagraphs of this paragraph, Montenegro may, after notifying the Commission, take equivalent measures.

The effect of the application of the present paragraph shall not result in conditions for the temporary movement of workers in the context of the transnational provision of services between that Member State and Montenegro which are more restrictive than those prevailing on the date of signature of the Treaty of Accession.

13. The effect of the application of paragraphs 2, 3, 4, 5 and 7 to 11 shall not result in conditions for access of Montenegrin nationals to the labour markets of the present Member States which are more restrictive than those applicable on the date of signature of the Treaty of Accession.

Notwithstanding the application of the provisions laid down in paragraphs 1 to 12, the present Member States shall, during any period when national measures or those resulting from bilateral agreements are applied, give preference to workers who are nationals of the Member States over workers who are nationals of third countries as regards access to their labour market.

Montenegrin mobile workers and their families legally resident and working in another Member State or mobile workers from other Member States and their families legally resident and working in Montenegro shall not be treated in a more restrictive way than third country nationals legally residing and working in that Member State or Montenegro respectively. Furthermore, in application of the principle of Union preference, migrant workers from third countries resident and working in Montenegro shall not be treated more favourably than nationals of Montenegro