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ACCESSION DOCUMENT

Subject: EUROPEAN UNION COMMON POSITION
– Chapter 10: Information society and media

EUROPEAN UNION COMMON POSITION

Negotiating Chapter 10: Information society and media

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 EU *acquis*, noting that additional *acquis* may enter into force before accession, to ensure its effective implementation and enforcement, and develop before accession, policies and instruments as close as possible to those of the EU.

The EU notes that Montenegro, in its position AD 11/13 (CONF-ME 9) and its addendum AD 11/13 ADD 1 (CONF-ME 9), accepts the *acquis* under chapter 10 as in force on 12 December 2024, and that it declares that it will be ready to implement it by the date of its accession to the European Union.

Overall Strategy

The EU takes note of Montenegro's good level of preparation in the area of Information Society and Media.

As regards the relevant strategic documents, such as Montenegro's 2024-2025 Action Plan for the 2022-2026 Digital Transformation Strategy, they are aligned with the objectives of the **Digital Decade Policy Programme** (DDPP). The EU welcomes Montenegro's commitment to further improve digital infrastructure, increase digital literacy, and promote digital services.

The EU notes that Montenegro joined the **Digital Europe Programme** (DEP), following the signature of the Association Agreement to the DEP between the European Commission and Montenegro in June 2023 during the meeting of the 2nd Regulatory Dialogue for the Western Balkans. The association agreement entered into force with retroactive effect from 1 January 2023. Since then, Montenegro successfully participated in calls for proposals under the DEP.

Electronic communications

The EU takes note of the adoption of the new **Law on electronic communications** on 10 October 2024, aligning with the *acquis* on Directive (EU) 2018/1972 establishing the European Electronic Communications Code (EECC). Through this Law, Montenegro has proceeded with legislative amendments to underpin the independence of its National Regulatory Authority (NRA), the Agency for Electronic Communications and Postal Services (EKIP).

The EU notes that Montenegro has developed adequate **administrative capacity** to enforce the *acquis* in the field of electronic communications but encourages Montenegro to proceed with further recruitment by hiring additional staff to fill the remaining positions. The EU commends the appointment of the EKIP Council Members in April 2024. This allowed the regulator to resume its work and normal functions and was a step in the right direction in building up a good track record regarding the independence of the telecommunications regulator. The EU also welcomes the provisions in Article 232 of the new Law on electronic communications which allows for the continuation of the current mandate of the EKIP members until the expiration of their term in office. This ensures continuity and stability in EKIP's work and operations. The EU notes that currently procedures are underway to appoint the Director of EKIP. The EU welcomes the commitment to continuous strengthening of EKIP's administrative capacities. The EU takes note of the plans in 2025 for further recruitment in the agency including the possibility of engaging specialised experts.

Furthermore, the EU welcomes the additional safeguards provided by the Law on electronic communications to preserve the **independence of the regulator**. The Law sets out clear procedures for the appointment and dismissal of Council Members and the Director. The EU welcomes that through this Law, EKIP was granted full autonomy in managing its budget establishing clear procedures for financial planning and reporting.

The EU welcomes that through the Law on electronic communications adopted in 2013 and as further amended in 2017, 2019 and 2024, Montenegro aligned with the Directive 2002/20/EC on the authorisation of electronic communications networks and services (**Authorisation Directive**) as requested in the AD 9/14 CONF-ME 5. The EU further welcomes the amendments to the Law on electronic communications in 2017 and 2024, that removed the requirement of the NRA to transfer surplus revenues to the state budget as requested in AD 9/14 CONF-ME 5. The EU notes that according to Article 201 of the newly adopted Law, when EKIP's revenue exceeds its expenditure, the surplus revenues are allocated to a special account of EKIP, and those funds are used to fulfil the legally prescribed activities in the following calendar year. The EU welcomes that the framework for frequency management in Montenegro is aligned with Directive (EU) 2018/1972.

In view of the above considerations, the EU holds that Montenegro has **met the requirements regarding electronic communications as set in the first and second closing benchmarks** as set out in the EU Common Position (AD 9/14 CONF-ME 5).

The EU welcomes Montenegro's continued progress in aligning with the EU *acquis* under chapter 10 in the field of electronic communications, namely:

The EU takes note that Montenegro is participating as an observer in the **Body of European Regulators for Electronic Communications** (BEREC) since 2011 and that a new Agreement was signed with BEREC on 9 June 2023. The EU also notes that, as of June 2023, Montenegro's NRA EKIP became a member, with the observer status, in the Radio Spectrum Policy Group (RSPG).

The EU takes note that the Law on the use of physical infrastructure for the deployment of high-speed electronic communication networks, which is generally aligned with Directive 2014/61/EU on measures to reduce the cost of deploying high-speed electronic communications networks (**Broadband Cost Reduction Directive**) was adopted in December 2021. The EU encourages Montenegro to further elaborate procedures for the use of physical infrastructure through secondary legislation.

The EU welcomes the finalisation of the Proposal of the National Plan for the development of networks for Broadband Internet Access 2025-2029 for Montenegro. This **National Broadband Plan** (NBP) aligns with the DDPP, targeting universal gigabit and 5G coverage by 2030. The EU acknowledges Montenegro's intentions to adopt the developed NBP by the end of 2024. The EU stresses the importance to work towards alignment with Regulation (EU) 2024/1309 on measures to reduce the cost of deploying gigabit electronic communications networks, amending Regulation (EU) 2015/2120 and repealing Directive 2014/61/EU (Gigabit Infrastructure Act).

The EU welcomes that in August 2023, Montenegro adopted a strategy for the development of **5G mobile communication networks** for 2023-2027 and defined its strategic directions of the development of the electronic communications sector in its Montenegro Digital Transformation Strategy 2022-2026 which was adopted in December 2021. At the end of 2022, Ekip successfully auctioned the 5G spectrum in the 700 MHz and 3600 MHz bands and awarded it to three major operators. The EU encourages Montenegro to follow its plan to activate 5G in every municipality by the end of 2024 while providing 5G coverage to 50% of the population by 2026. The EU calls on Montenegro to align with and implement the EU's 5G Cybersecurity Toolbox.

The EU welcomes that a **Broadband Competence Office** (BCO) was established within the line Ministry as the Department for Broadband Internet Access under the Directorate for Electronic Communications, Postal Services and Radio Spectrum. The EU welcomes that the BCO staff regularly participates in the meetings organised by the EU BCO network.

Information society services

The EU notes that Montenegro is broadly aligned with the *acquis* on information society services.

On information society services, the EU takes note of the developments in **administrative capacity** as reported by Montenegro. The EU notes that Montenegro has adequate administrative capacity to enforce the *acquis* in the field of information society services and encourages Montenegro to proceed with its plans for further recruitment of the remaining positions by hiring additional staff.

Regarding cybersecurity, the EU notes that Montenegro has strengthened its cybersecurity infrastructure, established, and improved the capacities of the government's Computer Incident Response Team (CIRT), and established an online portal to raise awareness of cybersecurity issues. The EU welcomes Montenegro's significant steps toward reaching the standards and requirements defined by the EU on cybersecurity.

The EU encourages Montenegro to adopt a new Action Plan under its cybersecurity Strategy, aligning with EU objectives. The EU notes that Montenegro adopted the Law on information security which seeks to align with Directive (EU) 2022/2555 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive). The EU encourages Montenegro to ensure full alignment with the remaining provisions of the NIS2 Directive as soon as possible.

The EU welcomes Montenegro's plans to establish an Agency for Cybersecurity and increase its cyber defence capacities, following the entry into force of the Law on information society.

The EU further welcomes establishment of the Digital Academy. This is a good online platform in building digital and leadership skills of public servants and also for students thus improving capacities and capabilities for digital transformation in the country and strengthening digital awareness in society.

Considering the recently adopted EU regulations in the field of information society services, the EU stresses the importance to further strengthen Montenegro's administrative capacities to effectively implement the new *acquis* on information society.

In view of the above considerations, the EU holds that Montenegro has met the requirements regarding the part on information society services of the second closing benchmark as set out in the EU Common Position (AD 9/14 CONF-ME 5).

The EU welcomes Montenegro's continued progress in aligning with the EU *acquis* under chapter 10 in the field of information society:

Regarding **data**, the EU welcomes that Montenegro formally committed to achieve full alignment of national legislation with Directive (EU) 2019/1024 on open data and the re-use of public sector information (Open Data Directive) by December 2026. The EU invites Montenegro to align its framework with Regulation (EU) 2022/868 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Act).

The EU urges Montenegro to finalise the new Law on free access to information. The EU commends that the amendments to the Law on personal data protection have achieved alignment with relevant EU *acquis*, as well as with international documents and regulations related to the field of personal data and privacy protection. The EU further commends Montenegro's work on a new technological solution in accordance with all technical specifications and EU standards in the field of opening data in the possession of authorities.

Regarding **digital trust**, the EU notes that Montenegro's Law on electronic identification and electronic signature, adopted in 2017, is fully aligned with Regulation (EU) No 910/2014 (eIDAS). The EU welcomes Montenegro's commitment to also align its legislation with the new EU Digital Identity Framework introduced by the amending Regulation (EU) 2024/1183 (eIDAS 2), in force since May 2024, as required by the Montenegrin Reform Agenda under the Western Balkans Growth Plan 2025-2027. The EU further welcomes the implementation of the new Certification Authority (CA) system.

Regarding **e-Government**, the EU takes note of the 2019 version of the Law on e-Government as well as of the Law on electronic document. The EU welcomes Montenegro's work on establishing new technological solutions for the Electronic Document Management System (eDMS) and the management of the process of electronic sessions of government. The EU further welcomes the work on the improvement of the System for Electronic Data Exchange between registers which needs upgrading. The EU also welcomes the work on launching the new eGovernment Portal for citizens and businesses, expected by the end of 2024. The EU further welcomes that the e-Payment portal became fully operational in 2023, allowing citizens to electronically pay administrative fees.

Regarding **interoperability**, the EU notes the adoption of the National Framework of Interoperability and its alignment with the 2017 European Interoperability Framework. The EU stresses the importance to seek alignment with the new legislation in place, notably with Regulation (EU) 2024/903 the (Interoperable Europe Act).

The EU commends that the Law on electronic commerce is aligned with Directive 2000/31/EC on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on Electronic Commerce). The EU welcomes Montenegro's plans to align with Regulation (EU) 2022/2065 (Digital Services Act) and Regulation (EU) 2022/1925 (Digital Markets Act) as part of the new Law on **e-commerce**. The EU invites Montenegro to step up its alignment with the Digital Services Act and Digital Markets Act to provide predictability for the business community.

Audiovisual policy

Regarding **audio-visual and media services**, in June 2024, Montenegro adopted a comprehensive legislative package to ensure alignment with the EU *acquis* in this field including the Council of Europe recommendations on European standards.

The EU takes note that Montenegro's legislation is largely in line with Directive 2010/13/EU Audiovisual Media Services Directive, (AVMSD) as amended by Directive (EU) 2018/1808 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities. The EU notes that the media legislation adopted in July 2020 and amended in 2024 is aligned with the AVMSD and introduces relevant legal safeguards against political interference in the national public broadcaster (RTCG) and the Agency for Audiovisual Media Services (AMU) – formerly known as the Regulatory Agency for Electronic Media (AEM).

The EU welcomes that with the adoption of the audiovisual media services Law, the AMU was given new powers addressing the long-standing challenge of its effectiveness to enforce the regulatory framework as **independent regulatory body**. The EU takes note that the AMU now has comprehensive sanctioning instruments, including the power to impose fines in case of violations of the law, as well as strengthened measures for prevention of conflict of interest and incompatibility of functions with political subjects and regulated sector. The EU takes note that the legal framework in place through the Law on the national public broadcaster adopted in June 2024 ensures predictable, sustainable, and sufficient funding to the RTCG and independence thereof.

The EU encourages Montenegro to advance its work in aligning with the provisions of the newly adopted Regulation (EU) 2024/1083 of the European Parliament and of the Council establishing a common framework for media services in the internal market (**European Media Freedom Act**) bearing in mind the deadline for applying the Act in the EU Member States. The EU welcomes that Montenegro has plans to proceed in this direction.

The EU takes note that, in October 2023, Montenegro adopted its media strategy for 2023-2027 together with an accompanying action plan 2023-2024.

The EU welcomes that through the adoption of the Law on audiovisual media services, Montenegro's participation in the media and cross-sectoral strands of **Creative Europe** was reactivated. The EU further welcomes that the legislative framework of Montenegro in the area of film heritage is aligned with the *acquis* in this chapter.

The EU takes note of the developments in **administrative capacity** as reported by Montenegro in its report. The EU notes that the provisions of the new Law on audiovisual media services' and those of media Law that are relevant for the AVMS Directive seem to guarantee sufficient administrative capacity to enforce the *acquis* in the field of audio-visual media services, including as regards regulatory independence. The EU further takes note of Montenegro's commitments to ensure that the AMU is sufficiently equipped and staffed and that the staff is adequately trained to ensure correct implementation of the audiovisual media legislation. The AMU will thus have sufficient administrative capacity to enforce the *acquis* in the field of audio-visual media services, including as regards regulatory independence.

In view of the above considerations, the EU holds that Montenegro has met the requirements regarding audiovisual policy of the first and second closing benchmark as set out in the EU Common Position (AD 9/14 CONF-ME 5).

The EU underlines the importance of audiovisual media and stresses that developments in this area and adequate implementation of the legislation to ensure the continued independence of the media regulator will be closely monitored, including within the context of chapter 23 on media freedom.

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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 *acquis* will continue throughout the negotiations. The EU underlines that it will devote particular attention to monitoring all specific issues mentioned above, including with a view to ensuring Montenegro's administrative capacity and its capacity to complete the alignment in all areas under this chapter. 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 EU will, if necessary, return to this chapter at an appropriate moment.

The EU notes that Montenegro, in its negotiating position AD 11/13 (CONF-ME 9) and its addendum AD 11/13 ADD 1 (CONF-ME 9), accepts the *acquis* under chapter 10 as in force on 12 December 2024. 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 date of its accession to the European Union.

Furthermore, the EU recalls that there may be new *acquis* between 12 December 2024 and the conclusion of the negotiations.