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Subject:	EUROPEAN UNION COMMON POSITION - Chapter 8: Competition policy

EUROPEAN UNION COMMON POSITION

Negotiating Chapter 8: Competition policy

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 prejudge 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 the requirements set out in points 24, 28, 41 and 44 of the Negotiating Framework.

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

The EU notes that Montenegro, in its negotiating positions AD 8/19 CONF-ME 1 and AD 14/26 CONF-ME 11, accepts the *acquis* under chapter 8 as in force on 1 April 2026, and that it declares that it will be ready to implement it by the date of its accession to the European Union.

Antitrust and mergers

As regards the legislative framework of Montenegro, the EU considers that with the new Law on protection of competition adopted in 2026 and the implementing legislation Montenegro aligns with Articles 101, 102 and 106 of the TFEU, Council Regulation (EC) No 1/2003, Directive (EU) 2019/1 and the other acquis in the area of anti-trust and mergers. Additionally, the Law on procedures for compensation of damage due to violation of competition in the market, adopted in 2026, aligns with Directive 2014/104/EU. Further alignment with the applicable *acquis* for the antitrust and merger instruments is ensured with the adoption of various secondary legislative acts under the Law on protection of competition. The EU notes that the new Law on the protection of competition abandons the Agency for the Protection of Competition's (APC) decision-making system for individual exemption requests, in accordance with the EU *acquis* in the field of competition protection. The law also gives the APC sufficient powers to require the termination of an infringement, impose interim measures and accept commitments; it also empowers the APC to impose periodic penalties, as well as to propose the amount of the fines to the Misdemeanour Court. Montenegro needs to continue following development of the *acquis* and accordingly to ensure timely alignment, as well to further adapt its legislation, for example with provisions that can only be implemented after accession to the EU (e.g. cross-border cooperation provisions under Directive (EU) 2019/1).

The EU notes that the capacity of misdemeanour courts has been strengthened throughout the years and that gradually a track record has been established for effective and efficient judicial investigations in cooperation with the APC and follow-up of detected irregularities, including through imposition of deterrent sanctions, where appropriate.

The EU notes that the competent bodies in the area of competition policy, in particular the APC possesses sufficient administrative capacities, underpinned by growing annual budgets for the APC. The EU welcomes Montenegro's resolute actions in this area, notably the recruitment and training of more case handlers. The EU notes the adoption of the Action plan for the strengthening of the administrative capacities in negotiation chapter 8, which provides a solid plan for further recruitment of necessary staff of the APC and line ministries, as well as increased trainings and budgetary commitments by the date of accession. Additionally, the EU welcomes the established system for the training of judges, including in cooperation with the Centre for Training in Judiciary and State Prosecution in Montenegro.

State aid

As regards Montenegro's legislative framework for State aid, the EU considers that the Law on State aid control adopted in 2025, and relevant secondary legislation align with Articles 107 and 108 of TFEU and relevant EU State aid *acquis*. The Law ensures the proper legal status of the alignment with the State aid *acquis* including with regard to the Rulebook on the List of State Aid Rules. Similarly to antitrust and mergers, Montenegro needs to continue following development of the State aid *acquis* and accordingly ensure timely alignment and further adaptation of its legislation.

The EU notes that the Law on protection of competition provides for the operational independence of the State aid authority by expanding the mandate of the APC to include State aid control.

The EU welcomes that Montenegro has strengthened the administrative capacity of the APC on State aid control, notably by recruiting more case handlers. The EU notes the gradual development of enforcement track record with an emphasis on *ex ante* notifications and controls, pointing to gradually improved system of State aid control and good awareness of state aid grantors, both among central and local authorities. The EU also welcomes the broad scope of activities organised by the APC to raise the awareness of State aid grantors and businesses, as well as efforts at reaching out to law, economic and political faculties of universities on topics of competition and State aid.

The EU also welcomes the established and functioning system of *ex ante* control and *ex post* monitoring of State aid in Montenegro. The EU notes that the competent authority – the APC, can perform an assessment of the compatibility of aid measures in complex cases, and where necessary ordering recovery of unlawful aid. The EU notes that Montenegro has demonstrated a gradually improved and overall satisfactory enforcement record in this area and calls upon Montenegro to sustain its efforts and to continue improving and delivering results in this field.

Considering the particular **State aid investigations** of potentially incompatible aid granted in the **airline sector**, particularly the company Montenegro Airlines, the EU notes that, in the period between 2019 and 2024, Montenegro carried out four *ex officio* formal investigations on all the potential State aid granted since 2012 (including the Law on investment in consolidation and development in the Montenegro Airlines of 2019) and issued three recovery decisions for incompatible State aid and including on issues of recovery in the context of insolvency. The EU also welcomes that the APC has taken initiative for additional actions beyond the initial request under the closing benchmark, e.g. to investigate the question of economic (dis)continuity between Montenegro Airlines and the new national carrier ToMontenegro and possible State aid granted to the latter. The EU considers that, through the abovementioned *ex officio* investigations, the APC has initiated the necessary investigations and procedural steps required for this benchmark case. While understanding that bankruptcy procedures in front of a Commercial Court may last a long time, the EU invites Montenegro to report on a six-monthly basis on any developments that may result in effective recovery of the incompatible State aid in that case as well on the fully fledged assessment relating to economic (dis)continuity between Montenegro Airlines and the new national carrier ToMontenegro, including on possible State aid granted to the latter.

With regard to the aluminium sector case, particularly the company Kombinat Aluminijuma Podgorica (KAP), the EU notes that its assets were taken over by "Politropus Alternative" d.o.o. Tivat and "Uniprom" d.o.o. Nikšić in 2014. In its decision of 11 March 2016, the State Aid Control Commission concluded that there is no economic continuity between KAP and the new owners of its assets. Uniprom continued the operation of the aluminium smelter on a smaller scale but effectively ceased its operations in December 2021. The EU notes the outcome of the dedicated assessment by the State Aid Control Commission that Uniprom has not benefitted from incompatible State aid.

With regard to the transport infrastructure case, particularly the Bar-Boljare highway, the EU notes the conclusions of the APC on the absence of incompatible State aid in financing the construction of the sections Smokovac-Mateševo and Mateševo-Andrijevica and the commercial exploitation of the former, notably in relation to the State company 'Monteput'.

Looking at the overall enforcement, the EU welcomes the track record of the APC in the identification and investigation of cases of possible incompatible aid and following up with its recovery. The EU calls on Montenegro to continue duly recording both compatible and incompatible State aid in the dedicated State aid registers and annual State aid reports.

As regards State aid in the agriculture and fisheries sectors, the EU refers to the European Union Common Positions for closing chapters Chapter 11: Agriculture and rural development (AD 22/25 CONF-ME 9/25) and Chapter 13: Fisheries (AD 21/25 CONF-ME 8/25), respectively.

With regard to aid which falls under the scope of this Chapter, the EU recalls that, in accordance with Article 108(1) TFEU, existing aid measures are subject to a review procedure under which the Commission can, in cooperation with the Member State, propose changes to an existing aid measure when appropriate to ensure compatibility with the Internal Market.

To the extent that Montenegro wants aid measures that have been put into effect before, and will remain applicable after the date of accession to be considered as existing aid within the meaning of Article 108(1) TFEU, the EU invites Montenegro to draw up a list of such aid measures which the APC considers to be compatible with the *acquis* and to transmit this list to the Commission for review.

The list shall contain the following information, to be submitted in a concrete reporting format provided by the Commission:

– All aid measures (both aid schemes and individual aid) which (i) have been put into effect before accession, and which will be applicable after accession; (ii) which have been assessed by the APC; and (iii) which the APC found to be compatible with the *acquis*;

– Any information which is essential for the assessment by the Commission of the compatibility of the aid measures on the list.

The list should be updated regularly until the date of accession.

Aid which is included in the list and to which the Commission, upon review, has not raised serious doubts as to compatibility will be considered as existing aid after the date of accession.

The EU informs Montenegro that aid measures put into effect more than ten years before the date of accession will always be considered as existing aid.

A reference to the existing aid list and to the procedure for its establishment (the so-called “existing aid mechanism”) will be included in the Accession Treaty.

All State aid measures still applicable after the date of accession which have not been identified as existing aid through the procedure described above shall be considered as new aid upon accession. After accession, application of such new aid measures will be conditional upon Montenegro notifying them pursuant to Article 108 TFEU and the Commission's finding that the aid measures are compatible with the internal market.

Liberalisation

The EU takes note that Montenegro has no State monopolies of a commercial character, as provided for in Article 37 TFEU, and that the Law on protection of competition and the Law on State aid control apply to public undertakings or undertakings with special or exclusive rights, except where their application would hinder the performance of activities of general economic interest, and which are entrusted in line with Article 106 TFEU.

The EU notes that the completion of the above-described elements fulfils the requirements of the closing benchmarks set in document AD 2/20 CONF-ME 1.

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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 Montenegro's commitments and progress in the alignment with and implementation of the *acquis* will continue until Montenegro's accession. The EU underlines that it will devote particular attention to monitoring all specific issues mentioned above with a view to ensuring Montenegro's full alignment with the *acquis* in this chapter as well as the administrative capacity for its effective implementation and enforcement. 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 and of the fulfilment of the other closing benchmarks can only be made at a later stage of the negotiations. In addition to all the information the EU may require for the negotiations in this chapter and which is to be provided to the Conference, the EU invites Montenegro to provide regularly detailed written information to the Stabilisation and Association Council on progress in the implementation of the *acquis* and in the strengthening of its administrative capacity.

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

The EU notes that Montenegro, in its negotiating positions AD 8/19 CONF-ME 1 and AD 14/26 CONF-ME 11, accepts the *acquis* under chapter 8 as in force on 1 April 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 1 April 2026 and the conclusion of the negotiations.