**Non-paper on the state of play regarding chapters 23 and 24 for Montenegro**

**June 2020**

**1. Introduction and summary**

As stated in the negotiating framework for EU-accession negotiations with Montenegro, the Commission will keep the Council duly informed and report to the Council twice yearly on the state of advancement of negotiations under the chapters "Judiciary and fundamental rights" and "Justice, freedom and security". The purpose of this non-paper is to provide an overview of Montenegro’s progress in this area since the last non-paper presented in November 2019, and the relevant statistical data for 2019. It is based on Montenegro's reports on the implementation of the action plans under chapters 23 and 24 for the second semester of 2019 and its contribution for the enlargement package. In addition, a range of other sources were used, including peer review missions, monitoring reports from international organisations and civil society organisations (CSOs), and contributions from Member States.

During the reporting period, Montenegro continued to implement the action plans for chapters 23 and 24 and other strategic documents in the area of rule of law, and also adopted new ones. It worked towards addressing the outstanding challenges highlighted in the European Commission’s 2019 Montenegro Report, the 18 June 2019 Council conclusions, and the November 2019 non-paper; in particular in the critical areas of media freedom, fight against corruption and the trafficking of human beings. Work on legislative alignment with EU *acquis*, institution-building and track-records continued across the board, with certain remaining challenges, including in the area of judicial reform. The COVID-19 pandemic created additional challenges in this area and contributed to certain objective delays in Montenegro’s work on its rule of law agenda.

On Chapter 23, Montenegro continues to work on a new legal framework on the media. There were some developments on investigations into old cases of attacks against media property. But challenges with regard to the overall situation in the area of freedom of expression and media remain. New criminal investigations were opened in corruption cases, and assets were temporarily and permanently seized. Montenegro is making further progress to develop and promote the system of alternative dispute settlement resolution and on the judiciary’s IT system. An analysis to feed into the new strategy for rationalisation of the judicial network is underway. However, Parliament could still not secure the required 2/3 majority for important judicial appointments and, therefore, key functions of the judicial system are filled on an acting basis. Additionally, concerns raised regarding contested senior appointments in the judiciary, which are not in line with Council of Europe Group of States against Corruption (GRECO) recommendations on the independence of the judiciary, have not been addressed. It remains important that Montenegro does not reverse on earlier achievements on judicial reform and that it continues further building track records, in particular on fight against and prevention of corruption, while ensuring genuine independence of all the respective institutions.

On Chapter 24, the initial track record on the fight against trafficking in human beings was consolidated. Internal organisation and coordination of law-enforcement agencies was further improved, as reflected in the increased number of arrests and prosecutions. Montenegro’s active involvement in international police cooperation again resulted in successful operations against Montenegrin crime groups, in the country and abroad, which also include prominent cases. However, access of law-enforcement agencies to key databases is still limited and hampers investigations. Lengthy court proceedings and multiple adjournments of hearings still impede the adjudication of organised crime cases. Final convictions based on plea bargains remain the norm, leading to lenient sentences and fines. In the area of migration and asylum, Montenegro continued to show its resilience and commitment against the background of increased migration flows across the country. The Status Agreement with the EU, providing for the deployment of European Border and Coast Guard teams with executive powers along Montenegro’s borders with the EU, was ratified and is expected to enter into force on the 1st of July 2020.

**2. Detailed overview**

**2. 1. Chapter 23: Judiciary and fundamental rights**

**Judiciary**

The 2019-2020 action plan accompanying the 2019-2022 judicial reform strategy is being implemented without any notable delays. The amendments to the law on courts and the law on the State Prosecutor’s Office adopted by the Government in December 2019 and aimed to harmonise both laws with the 2018 law on judicial cooperation in criminal matters are pending enactment by Parliament.

According to December 2019 GRECO report, outstanding issues remain with regard to strengthening the Judicial Council’s independence against undue political influence, for example the ex-officio participation of the minister of justice. The anti-deadlock mechanism introduced by the 2018 amendments to the law on the Judicial Council continues to apply, allowing for the extension of the non-judicial members’ mandate until new ones are elected. Following the resignation of the President of the Judicial Council in December 2019, the Council continued to operate in an incomplete composition. A new call for non-judicial members of the Judicial Council published in January 2020 has not yet been finalised by Parliament.

The 2020 budget of the Judicial Council was increased by 20% to € 1.65 million from the € 1.37 million allocated in 2019. The 2020 budget of the Prosecutorial Council rose by 16% to € 670,000 (2019: € 561,000). The operational capacity of both Councils secretariats continues to improve, but needs further strengthening. Additionally, both Councils still need to assume budgetary and financial management functions at central level as well as at court and prosecution office level. Technical preparations are to be finalised to gradually transfer budgetary planning and execution to courts and prosecution offices in the course of 2020, while the Ministry of Finance is yet to recognise them as budgetary units.

Independence and impartiality

The legal framework guaranteeing judicial independence is in place, however, the judiciary and the prosecution remain perceived as vulnerable to political interference. Between 2019 and early 2020, the Judicial Council re-appointed (altogether) seven court presidents, including the President of the Supreme Court, for at least a third term. This raises serious questions over the Judicial Council’s interpretation of the letter and purpose of the underlying constitutional and legal framework, which limits such appointments to maximum two terms in order to prevent the over-concentration of power within the judiciary. It is also not in line with GRECO recommendations on the independence of the judiciary. In April 2020, as part of the measures introduced due to the COVID-19 outbreak, the Government decided to reduce the salaries of functionaries and civil servants in the highest remuneration groups by 50% in the months of May and June. This measure applied to 134 judges and 59 prosecutors.

The mandate of the Supreme State Prosecutor expired in October 2019 and his successor has yet to be appointed. After the first unsuccessful call for candidates, the Prosecutorial Council appointed the outgoing Supreme State Prosecutor in an acting capacity. The second call proceedings are currently pending before Parliament. The Prosecutorial Council has not yet completed the appointment procedure for 11 heads of state prosecution offices, initiated in 2019. In January 2020, the Constitutional Court, after the unsuccessful election of a new president, elected its former President as a ‘presiding judge’; an interim function until a new Constitutional Court president is elected. Such a category is not provided for by the legal framework.

Montenegro continues organising single nationwide competitions for judges and prosecutors. In 2019, 9 judges were promoted to higher-level judicial positions and 2 prosecutors were elected to higher-instance prosecution offices. Both Councils conduct regular assessment of judges and prosecutors under the new system of regular professional assessment. In 2019, 55 judges and 53 prosecutors were evaluated under the regular assessment procedure. All evaluated prosecutors received an excellent grade. This raises questions over the objectivity of the evaluation process and the application of the evaluation criteria.

The practice of reallocating large numbers of cases between courts to reduce backlogs continued in the absence of clear criteria (1451 cases in 2019), putting at risk the right to a lawful judge. One presidential pardon was granted in 2019, which also happened in 2018.

Accountability

Track records on the enforcement of codes of ethics and disciplinary accountability for judges and prosecutors remain limited and case law has yet to be developed. In 2019, one disciplinary proceeding was launched and completed before the Judicial Council disciplinary commission, establishing a violation which was sanctioned by a 20% salary decrease for 3 months (2018: one proceeding initiated). In 2019, there were no new disciplinary proceedings against prosecutors (2018: four cases in total). During the same period, there were 14 reports of alleged violation of the code of ethics for judges; 12 were completed and in 2 cases violations were established by the ethical commission (2018: 15 cases in total, violation established in one case). In one of these 2 cases, the Judicial Council overturned the decision on violation upon a complaint submitted by the judge. Out of the 12 cases of alleged violation of code of ethics for prosecutors, violation was established in 3 cases (2018: 4 cases, no violation established). A legal remedy against decisions of the ethical Commissions of both Councils has yet to be provided for by the law. The counselling function of the ethical commissions has been strengthened within the judiciary and prosecution service, but further efforts will be required to promote the ethics and professional conduct in the judiciary and information on existing complaints mechanisms.

In 2019, the Ministry of Justice's regular judicial inspection found irregularities in a misdemeanour court’s register-keeping and archiving system, while no irregularities were established in the prosecutors’ offices. The ministry’s capacity to conduct judicial inspections remains limited, with only two judicial inspectors working on the supervision of courts, prosecution offices, notaries and public bailiffs.

In December 2019, the revised code of ethics for public bailiffs was adopted and the new commission for ethical conduct of public bailiffs was formed. The Ministry of Justice and the Public Bailiffs' Chamber continued with joint inspections of bailiffs' offices. In total, 6 irregularities were found in 3 offices. In 2019, 4 disciplinary proceedings were initiated against public bailiffs, with 1 additional so far in 2020. In 2 cases, disciplinary liability was established and fines were imposed accordingly. In another case, a public bailiff was temporarily suspended until the end of criminal proceedings.

Efficiency and professionalism

Issues remain regarding the reliability and availability of statistical data for the judiciary in the absence of an advanced case management system. The implementation of the 2016-2020 action plan for the implementation of the ICT strategy for the judiciary, continued with some delays.

In 2019, 131,956 cases were pending before Montenegrin courts, 92,984 of which were new cases (6.9 % less than in 2018). Some 92,305 cases were resolved (5.5 % less than in 2018), while the overall case backlog fell by 2 % to 38,190. Montenegro continued to take concrete measures to reduce the backlog of old cases, which were given priority status. The number of cases older than 3 years fell by 5.5 % to 2,912. The disposition time, i.e. the average time from filing to decision, was 143 in basis court cases (2018: 142), 116 for commercial cases (2018: 107) and 534 days before the Administrative Court.

Regarding enforcement, the clearance and recovery rates are increasing, and the backlog of enforcement cases before the courts has been reduced from 150,000 in 2016 to just around 2,500 at the end of 2019. In 2019, 61,127 cases were filed to bailiffs' offices, with 40,019 cases pending at the end the year. The centralised case management system for bailiffs continues to be used consistently, guaranteeing data reliability. The enforcement of court decisions remains to be challenging.

The 2020 budget for the judiciary is € 39.1 million, which is similar to 2019. Montenegro has 51 judges (58% of whom are females) and 17 prosecutors (over 65% of whom are females) per 100,000 inhabitants, far above the European average of 21 judges and 11 prosecutors (source: European Commission for the Efficiency of Justice - CEPEJ), as well as three times as many judicial staff per inhabitants as the European average. The COVID-19 outbreak has delayed the finalisation of the underlying analysis to feed into the new strategy for rationalisation of the judicial network, which is currently under preparation.

Montenegro continued implementing measures to strengthen and promote the use of alternative dispute resolution. The new law on alternative dispute resolution, adopted by the government in November 2019, is yet to be enacted by Parliament. In 2019, 917 cases were referred to the Centre for Mediation (2018: 629), and 403 cases were settled through mediation (2018: 107). During the same period, 2,743 cases (2018: 3,450) were submitted to the Agency for Peaceful Settlement of Labour Disputes, 1,258 of which were resolved (2018: 3,041).

In 2020, the Judicial Training Centre has an allocated budget of € 615,593 (2019: € 619,000) which remains below the statutory minimum, but sufficient since a large part of its activities continue to be financially supported by the EU and other international donors. Its secretariat still employs 14 of the 19 planned posts, while the number of its implemented activities is steadily increasing. The Centre is an observer to the European Judicial Training Network (EJTN) but is not proactively benefiting from the expertise within the network.

Domestic handling of war crimes cases

In November 2019, a second-instance court upheld the first-instance decision from June of the same year, sentencing a defendant to 14 years of imprisonment for crimes against the civilian population in Kosovo[[1]](#footnote-1)\*. Within the jurisdiction of the Special Prosecutor's Office (SPO), four cases remain in the preliminary phase of investigation concerning war crimes committed on the territories of Bosnia and Herzegovina, and Croatia. In 2019, Montenegro acted upon seven letters rogatory from Bosnia and Herzegovina and three letters rogatory from Croatia. Activities are ongoing on re-examination of old cases with a view to securing revision of the final judgements. The prosecution regularly participates in regional operational meetings. In 2019, there were 19 claims for compensation pending before the basic court of Podgorica: 17 for damages incurred due to the reduction of general life activity, fear and mental suffering, and 2 for damages incurred due to unlawful deprivation of liberty. All these claims are given priority by the court. By 31 March 2020, 3 claims for compensation were partially upheld, awarding non-pecuniary damages in the amounts between € 4,500 and € 6,000.

**Fight against corruption**

Prevention of corruption

The capacity of the Anti-Corruption Agency (ACA) continued to be strengthened through capacity-building activities and technical assistance. Currently, 54 people are employed out of the 60 planned posts. There were further improvements to the IT system. The ACA now has real-time access to relevant databases. All data since the Agency began operating (1 January 2016) have been incorporated into its information system. The ACA continued measures on communication and awareness-raising. Despite the measures taken and the more proactive work of the new ACA Council (such as on the Government’s housing policy for civil servants), challenges with regard to transparency, integrity, impartiality, independence, an unselective approach, together with uniform and full application of relevant laws, remain. Following the resignation of the previous ACA director in December 2019, the new director is yet to be confirmed; three call for candidates has so far been unsuccessful.

In 2019, the ACA instituted 387 proceedings before the misdemeanour courts (380 for violation of the law on prevention of corruption and 7 for violation of the law on financing of political entities and electoral campaigns). A total of 371 proceedings were completed, including those from previous years and fines were imposed in 90 % of them. These fines amounted to € 75,380 for violation of the law on prevention of corruption, and € 19,900 for violating provisions of the law on financing of political entities and electoral campaigns. The ACA issued a further 40 direct misdemeanour orders, 35 for violation of the law on prevention of corruption and 2 for violation of the law on financing of political entities and electoral campaigns (2019: 19), imposing fines in the amount of € 21,997. In 13 cases, the ACA requested seizure of material gain before the competent courts, resulting in seizures in 7 cases with a total amount of € 22,966.

Based on the 158 opinions (2018: 185) and 72 decisions (2018: 60) issued by the Agency in 2019 on **incompatibility of functions and conflict of interests**, 57 public officials (2019: 77) resigned from their office and from 59 functions and 4 were dismissed.

In 2019, 8,149 **income and asset declarations** were submitted to the Agency (2018: 8,004). The optional consent for accessing bank accounts for the purpose of verifying the data submitted in the declarations decreased in 2019 from 60% to 57% of public officials and from 69% to 65% of civil servants. The ACA verified 911 such reports, slightly exceeding its annual plan. It initiated 119 administrative proceedings, and established violations and irregularities in 54 decisions. Sanctions were imposed in 17 cases, 15 in the form of a warning, 1 as a dismissal, and 1 in the form of a salary deduction. The Agency investigated 31 cases of inexplicable wealth in 2019 but found no irregularities. The ACA carried out planned control and verification of 839 public officials, 20 of them high-ranking officials. In this regard, 7 misdemeanour orders were issued totalling € 2,252.

The ACA continued to monitor the overall compliance of relevant entities in meeting the legal obligations on the **financing of political parties and electoral campaigns**. Forty-eight political parties (out of 59) submitted annual financial reports, while 44 submitted decisions regarding amounts of membership fees for 2019. All reports submitted were published on the Agency’s website. In 2019, the Agency verified 6 reports from the biggest political parties and performed further 41 verifications of compliance with the law. In the context of the 'envelope affair', the ACA published the decision on the misdemeanour order of € 20,000 against the ruling party and a request for payment of € 47,000 to the state budget in December 2019, 10 months after it had been issued.

The new law on financing of political entities and election campaigns, enacted by Parliament in December 2019 only partially addressed the OSCE/ODIHR recommendations. In April 2020, the Parliament enacted a further amendment to this law, providing for allocation of social benefits from the budgetary reserve in an election year, in case of war, state of emergency, epidemic of pandemic of communicable diseases. Adequate safeguards have to be put in place in order to prevent abuse of public funds for electoral campaigns purposes.

In 2019, 3 requests for **whistle-blower** protection were submitted to the ACA (2018:1). So far, ACA issued a negative decision in one of these cases, the other 2 are still under examination. The Agency also received 110 reports on threats to public interest (same number as in 2018). In 49 completed examinations of these reports, it identified a threat to public interest in 9 cases. The Agency further initiated 3 *ex officio* proceedings (still ongoing) for determining the existence of a threat to the public interest and continued working on the 4 it initiated in 2018.

The ACA continued to provide support to public bodies concerning **integrity plans**. In 2019, 671 reports on implementation of the integrity plans were submitted to the Agency. The practical impact of integrity plans has yet to be assessed.

No new **lobbying certificates** were issued in 2019 (since 2014: 14). Six lobbyists and one legal entity remain registered with the Agency. In 2019, the ACA prepared an analysis of the legal framework in this area.

Apart from police and customs, there were no cases demonstrating the implementation of **codes of ethics** for members of the legislative and executive authorities.

The application of the current **law on free access to information** has not helped to increase the accountability and transparency of the public service with authorities continuing to declare requested information as classified and thereby excluding it from the scope of the law. In 2019, the total number of requests for free access to information was 5,409 (2018: 6,080) and 3,531 complaints were filed (2018: 3,248). The process of revising the law started in spring 2019, but has been delayed due to the COVID-19 outbreak.

The overall impact of anti-corruption measures in **particularly vulnerable areas** (local self-government, spatial planning, public procurement, privatisation, healthcare and education) has yet to be demonstrated by tangible results. Regarding public procurement, the amendments to the law on public procurement were enacted in December 2019, providing a legal basis for full implementation of an electronic public procurement system. This should improve the transparency of public procurement procedures and help to reduce corruption risks.

*Repression of corruption*

A track record of investigations, prosecutions and final convictions in cases of high-level corruption has been established but remains to be further consolidated.

In 2019, the Special Public Prosecutor's Office opened investigations into high-level corruption-related criminal offences in 6 cases against 15 individuals, including the majority owner of a commercial bank and the bank’s CEO, director of a public company and municipality functionaries; and 1 legal entity. A further 3 investigations were opened by the end of March 2020. In 2019, 5 indictments (2018: 12 cases) were lodged for the criminal offence of high-level corruption against 38 individuals and 3 legal entities and the financial investigations have been launched in 4 cases against 29 individuals in high-level corruption cases. In the ‘envelope affair’ case, the prosecution indicted the former mayor of Podgorica and current adviser of the President of Montenegro for money laundering. No further indictments were lodged by 31 March 2020. Four final and enforceable judgements (2018: 4) were issued for high-level corruption in 2019 and one further against 3 individuals by the end of March 2020. No final judgements were issued against public officials. There have been no new developments with regard to Montenegro’s request to Serbia in April 2019 for the extradition of the former President of the State Union of Serbia and Montenegro who was convicted of high-level corruption-related offences.

The track record on the **confiscation** **of assets** still needs to be improved. In 2019, the High Court in Podgorica ordered the temporary confiscation of assets with a total value of € 3,477,880 in three cases. One further residential unit of 193m2 was permanently confiscated in February 2020.

**Fundamental rights**

As regards to **international human rights instruments**, no new ratifications took place. In 2019, the Ministry of Foreign Affairs developed a database to track the implementation of obligations and recommendations from international human right mechanisms.

Montenegro continues to ensure a good level of cooperation with the **European Court of Human Rights (ECtHR)**. In 2019, 427 new applications against Montenegro were allocated to a judicial formation and 98 applications were pending before the Court at the end of the year. The ECtHR found violations of the European Convention on Human Rights (ECHR) in 3 cases with respect to inhuman treatment during detention, unlawful detention and unjustified duration of detention.

As regards to the **promotion and enforcement of human rights***,* the Ministry of Human and Minority Rights (MHMR) continued to strengthen its administrative capacity through the creation of new positions and internal training programmes. However, the MHMR’s overall capacity remains weak. Public institutions’ overall awareness of human rights standards slightly improved in 2019. The quality of the Constitutional Court's and regular courts’ decisions continues to improve in terms of application of human rights standards and ECtHR case law. However, there are concerns over institutional disputes and divergent understanding and interpretation of human rights standards between the Supreme and the Constitutional Court, putting legal certainty and the right to a final decision and effective legal remedy at risk.

The budget allocated to the Ombudsperson’s Office for 2020 (€ 725,227) slightly increased compared to the previous year (€ 695,322). Despite the lack of staff and the relatively limited resources, the Office continues to have good visibility, outreach and productivity. In December 2019, Parliament confirmed, with wide political support, the appointment of a new Ombudsperson. Staff training activities and initiatives to promote the human rights of the most vulnerable groups, particularly children, continued, along with cooperation with the UNHCR to uphold the protection of the human rights of migrants and asylum seekers. The national electronic database for the management of complaints was improved. In 2019, the Office received 840 human rights complaints (2018: 889).

As regards to the **prevention of torture and ill-treatment**, the regulatory framework has been partly consolidated with the adoption of a set of implementing rules in 2019 and early 2020. No steps have been taken yet to address the 2018 UN Universal Periodic Review recommendation to explicitly prohibit in the Criminal Code the statute of limitations for crimes of torture and other forms of ill-treatment.

In 2019, 13 complaints related to torture, and ill-treatment were registered by the Ombudsperson's Office. New investigations were opened and indictments lodged for ill-treatment by law enforcement. Judgements were issued at first-instance, but no judgement is yet final and 12 such cases are currently pending before first-instance. In total, 21 disciplinary proceedings were initiated in 2019 for violation of official duty, while 6 new cases were opened in the prosecution against police officers suspected of excessive/disproportionate use of force.

The operational capacity and visibility of the National Preventive Mechanism (NPM) were reinforced in 2019 with the provision of additional funds for promotional activities, research and monitoring. The NPM mission carried out 26 control visits to assess the conditions of detention, as well as conditions in mental health institutions and treatment of migrants and asylum seekers were also conducted in 2019.

Concerning the **prison system and conditions**, additional measures were taken to address the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from February 2019. An ethics committee was established for monitoring compliance with the provisions of the new code of ethics for civil servants and state employees of the Institute for the Execution of Criminal Sanctions. Some improvements were made to nutrition and health-care services, family visits, human resources development and the working environment. The material conditions of detention remain poor overall and serious challenges in this respect were further exposed in the context of the COVID-19 outbreak. Prison extensions and additional penitentiary building plans are currently under preparation. The EU-funded technical assistance for the construction of a new prison facility in Mojkovac started in November 2019. Cooperation with civil society continued regarding prisoners with special needs, prevention of recidivism and social reintegration and personal/professional development. Full accessibility for persons with disabilities in prison is yet to be addressed.

On **protection of personal data**, a new law on protection of personal data is in preparation with the aim of aligning it with the Regulation (EU) 2016/679 (General Data Protection Regulation) and the Directive (EU) 2016/680 on the processing of personal data for authorities responsible for preventing, investigating, detecting and prosecuting crimes. Activities to increase the capacity of the Agency for Personal Data Protection and Free Access to Information have continued but its overall capacity remains limited. The COVID-19 crisis exposed the challenges in this area with regard to finding the right balance between the protection of health and respecting the confidentiality of personal health data and the right to private life of citizens. A list of all persons subject to self-isolation measures was published which was subsequently used by a private individual to create an app allowing users to locate those in self-isolation. In April 2020, a list concerning more than 60 persons infected with the virus was leaked, containing their names, birth data and ID numbers. A criminal investigation is currently underway.

In the area of **freedom of thought, conscience and religion**, in December 2019 Parliament enacted the law on the freedom of religion or belief in order to regulate, among other things, the legal status of religious communities, their property and property rights over religious sites. The law declares state property rights over religious buildings and land built or obtained from state revenues, or which were owned by the state until 1 December 1918 and for which there is no evidence of ownership by the religious community. Large-scale religious rallies in support of the Serbian Orthodox Church and protests subsequently followed, but were halted by the Church due to the COVID-19 crisis. In February 2020, the government re-initiated a dialogue between legal experts and the Serbian Orthodox Church, which considers itself heavily impacted by the law. In mid-May 2020, just before easing of the ban on public gatherings, the authorities arrested and detained one of the Church’s Bishops and eights of its priests for disobeying the COVID-19 restrictions on gatherings for 72 hours. As of mid-May religious ceremonies can be held with believers if social distancing is respected.

In the area of **freedom of expression**, four attacks against journalist were registered by the authorities in 2019. Indictments were lodged in 3 of those cases. Protection was offered to 2 journalists. Further cyber-attacks against media outlets were reported. In spite of initial results in the investigation into the May 2018 serious attack on investigative journalist Olivera Lakić, no indictments have been lodged so far. There were no new developments with regard to older serious cases of attacks against journalists, including the 2004 murder of the editor of *Dan*. In April 2020, the Police, however, shed light on four cases of attacks on media property from 2011 and 2014, when five vehicles were damaged and destroyed. Two persons – minors at the time of the attacks – were arrested, but the organisers of attacks remain unknown. Montenegro’s Police Directorate is the first in the region to commit to capacity building activities on safety of journalists under an EU-funded project.

In January 2020, as a measure to fight disinformation, editors of online portals were detained for the alleged offence of causing panic and disorder. There were further subsequent repressive measures by the authorities against members of the public for their social media posts, including in the context of the COVID-19 crisis and criminal proceedings were instituted against four citizens. The recommendations of the ad hoc commission for monitoring violence against the media are yet to be fully implemented. While the ad hoc commission’s mandate has been extended until September 2020, its funding for 2020 has been temporarily suspended due to the COVID-19 outbreak. New laws on the media and the public broadcaster RTCG have yet to be enacted by Parliament, while the new law on audio-visual media which should align with EU *acquis* in this area is under preparation. The RTCG's transition from a state media organisation to a true public service broadcaster has not yet been completed. The appointment of its new Council in June 2019, has not succeeded in improving the RTCG’s editorial independence and professional standards. In December 2019, Parliament enacted amendments to the law on public peace and order which introduces fines for not standing for the national anthem.

**On freedom of assembly and association**, a ban on public gatherings was introduced for the duration of the COVID-19 crisis. As of mid-May the ban is maintained for public gatherings of more than 200 persons.

Regarding **property rights**, several cases of alleged violations of Article 1 of Protocol No. 1 ECHR (right to property) are pending before the ECtHR. The detailed procedures to determine property rights over religious sites and their use in accordance with the new law on freedom of religion or belief is yet to be clarified. It will need to be in line with relevant international and European human rights standards, including the recommendations of the Venice Commission opinion on the draft law of June 2019.

Regarding **non-discrimination**, the number of complaints of discrimination (141) submitted to the Ombudsperson’s Office in 2019, which also has the legal mandate of an equality body, remained at the 2018 level (146). The trust in the Office’s contribution to the fight against discrimination continues to increase. No new court cases were opened in 2019. In December 2019, a working group for revising the law on prohibition of discrimination to further align it with EU *acquis* was established. The finalisation of the draft has been delayed due to the COVID-19 outbreak.

On **equality between women and men**, in 2019, for the first time, a Montenegro Gender Equality Report was prepared and published, based on the methodology of the Gender Equality Index developed by the European Institute for Gender Equality (EIGE) for the European Union and its Member States. Montenegro’s index score was 55 points, compared to an EU average of 67.4. In December 2019, Parliament enacted a new labour law, which aimed to bring national law in line with the EU directives 2006/54/EC on equal opportunities in employment and 92/85/EEC on pregnant workers, although further progress still needs to be made regarding alignment to the latter directive. The Judicial Training Centre and State Prosecution organised trainings on women's rights and gender equality. Sexual harassment is still not qualified as criminal offence.

2019 saw a persistently high number of reported cases of **violence against women and domestic violence** which relate to criminal offences (186 cases, of which courts resolved 106) and domestic violence misdemeanours (1,759 cases, of which courts resolved 382). The Ministry of Labour and Social Welfare started issuing licences to several specialised CSOs offering victim support services. Confinement measures imposed during the COVID-19 outbreak led to a notable additional increase of cases of domestic violence. The authorities, in cooperation with CSOs, responded with a campaign to raise awareness and provide help to victims, and launched a mobile phone application for victims to contact the national SOS helpline and seek protection. Despite authorities’ commitment and concrete measures taken, challenges remain with regard to services’ response to domestic violence cases, lack of a systematic approach with regard to physical protection of victims and prosecution of registered cases, as well as overly lenient sanctions.

Concerning the **rights of the child**, the guidelines for the health sector's response to children and adolescents who are victims of violence, intended to increase detection and reporting, were finalised in November 2019. The very low numbers of reported cases of sexual violence against children continues to raise concerns about under-reporting and identification of victims. A dedicated campaign on the mental health of children was launched in 2019. The system for licensing CSO service providers in the social protection system was further developed to provide day-care services for children from families at risk, family outreach workers and an SOS telephone line for children. However, those services are largely project-funded and require more sustainable public financing. In March 2020, a public awareness-raising campaign against arranged child marriages was launched, in cooperation with CSOs.

Regarding the **rights of persons with disabilities**, an action plan to follow-up on recommendations of the UN Committee on the Rights of Persons with Disabilities is under preparation. Amendments to the law on professional rehabilitation and employment of persons with disabilities are not yet finalised. This has, among other things, delayed validation of the rulebook on the working centres and facilities for employment of persons with intellectual and psycho-social disabilities. Concrete steps were taken in 2019 to improve access for persons with disabilities to public facilities and institutions, but the existing legal provisions are yet to be effectively implemented to ensure the systematic enforcement of their rights. Access to polling stations remains a concern. As of 1 January 2020, a new law on non-contentious proceedings is in force which includes some procedural safeguards with regard to procedure for deprivation of legal capacity.

On the **rights of lesbian, gay, bisexual, transgender and intersex (LGBTI)** **persons**, capacity-building activities for police officers, prosecutors and social services professionals were delivered in six municipalities. The Ministry of Human and Minority Rights provided grants to help maintain two LGBTI shelters. After two unsuccessful votes in Parliament, the government revised its proposal for the law on life partnership of same sex partners (same-sex partnership law) in December 2019. In March 2020, the Parliamentary human rights committee organised a consultative session to promote the law which is still pending enactment. More than 100 complaints of discrimination, hate speech and verbal abuse in the media have been lodged in 2019, but only one person was convicted in the same year for violent LGBTI-phobic behaviour perpetrated in 2017. In September 2019, the seventh Pride Parade took place in Podgorica without incidents.

In the field of **procedural rights**, no new activities have been implemented to ensure full alignment with the EU *acquis* and European standards, notably on the rights of suspects and accused persons in criminal proceedings as well as on victims’ rights. The duration of judicial proceedings remains an issue. More efforts are required to ensure access to justice, including through dissemination of information on free legal aid and additional measures for victims, more particularly for vulnerable groups and persons in situation of vulnerability.

Concerning the **protection of minorities**, there has been some improvement regarding the Fund for the Protection and Realisation of Minority Rights, but lack of monitoring and evaluation of projects receiving funding feed into a perception that the funding process still lacks transparency. The legal framework for Minority Councils will need to be reviewed regarding their establishment, legal status and gender balance in accordance with the October 2019 recommendations of the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities. Some inter-ethnic incidents were reported in the context of the adoption of the law on freedom of religion or beliefs.

In April 2020, the government adopted the annual action plan for the implementation of the strategy for the social inclusion of **Roma and Egyptians**[[2]](#footnote-2). The budget allocated for implementing the strategy remains insufficient and Roma-responsive budgeting needs to be given greater priority across different sectors. Efforts to meet the commitments from the Western Balkan Partners Roma Integration declaration in Poznan (signed in July 2019), need to be stepped up. The conclusions from the June 2018 Roma Seminar involving all the relevant stakeholders, are yet to be implemented. In 2019/2020, 1,803 Roma and Egyptian children were enrolled in primary schools (1,793 in 2018/2019), only 142 in secondary school and there were 13 high school students. While drop-out rates are moderately decreasing, the overall completion rates remain very low, with only 88 pupils successfully completing elementary school and 19 secondary school in 2019. Twenty-one Roma mediators have been employed by the Ministry of Education since the beginning of the 2019/2020 school year to help increase the enrolment rate of Roma and Egyptian children and reduce the dropout rate. Some targeted measures were implemented with regard to active employment measures of Roma, but their sustainability and effectiveness have yet to be ensured. In the area of health, three Roma health mediators are employed in Podgorica and two in Nikšić and Berane. Challenges remain for the housing of domiciled Roma and Egyptians, in particular in light of the July 2019 deadline provided by the law on spatial planning and construction for applications for the legalisation of illegal buildings. This cumbersome and expensive process has created difficulties for many Roma and Egyptian families.

With regard to **displaced and internally displaced people**, there were a total of 15,247 requests for permanent or temporary residence lodged until March 2020, 15,075 were resolved with 12,374 persons being granted permanent or temporary residence up to 3 years and 172 requests were still pending. Some 298 requests were rejected and 2,412 discontinued due to incomplete or double applications.

In the **field of citizenship rights**, Montenegro launched its investors' citizenship scheme in January 2019 and has received 24 applications so far. Five were rejected after due diligence procedure, while final positive decisions for 5 applications on citizenship were issued. No passports have yet been issued to these applicants or their family members due to the COVID-19 outbreak and the respective travel ban. In December 2019, Parliament enacted amendments to the law on Montenegrin citizenship. These confirm the automatic eligibility for citizenship of the family members of successful applicants to the investors’ citizenship scheme, as well as the eligibility of talented athletes and under age artists for citizenship. This scheme needs to be closely monitored as it poses risks as regards migration, security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime.

**2.2 Chapter 24 – Justice, Freedom and Security**

**Migration**

Montenegro continued to be an attractive country for labour migration in 2019, with 27,634 work permits delivered. Legal migration is regulated by a quota system which is established annually. Seasonal workers, mainly from the Western Balkans, work primarily in tourism, construction and agriculture. 42,517 temporary residence permits were issued in 2019.

The upward trend in the number of irregular migrant arrivals continued in 2019 and the first 3 months of 2020. 7,978 migrants were apprehended in 2019, a 60% increase from 2018, and 1,200 between January and March 2020. Montenegrin authorities prevented 516 illegal entries to the country and 1,514 illegal exists from the country in 2019. The Special Prosecutor’s Office conducted three investigations into migrant smuggling in 2019, involving more than 40 people. In four cases, final convictions were pronounced regarding 48 people.

Montenegro has a contingency plan for possible mass influx of migrants and asylum seekers at the borders, adopted in 2015.

In the context of the COVID-19 pandemic, only six border crossing points remained open, to ensure the movement of goods and the return of Montenegrin citizens. The entry of foreigners was prohibited. Foreigners with temporary or permanent residence in Montenegro were subjected to the same regime as Montenegrin citizens, which did not include a total prohibition of movements. The number of illegal entries went down to 4 in April and 8 until the 26th of May 2020.

Secondary movements continued to add to migratory flows, in particular those created by readmission from Bosnia and Herzegovina. Montenegro readmitted 2,213 third-country nationals from neighbouring countries in 2019 under bilateral readmission agreements, with 2,033 from Bosnia and Herzegovina (a 139% increase from 2018). Readmission from Montenegro to neighbouring countries increased to 382 people, including 350 to Albania.

Forty-one voluntary returns from Montenegro took place in 2019. These included 21 to neighbouring countries, processed directly by Montenegrin border police, and 20 to origin countries, supported by the International Organization for Migration. Montenegro has 10 readmission agreements with non-EU countries, but none with the main countries of origin that it would need to process forced returns.

The EU-Montenegro readmission agreement and its 15 implementing protocols with EU Member States continued to be implemented satisfactorily, with the number of readmission requests from EU Member States and Schengen associated countries continuing to decline. Five hundred ninety-five Montenegrin citizens were ordered to leave the EU in 2019. The return rate was 59.7%. Fluctuations in the return rates over the past years are not the result of underperformance in cooperation, which remains good, but can be rather attributed to the processing of backlog cases.

**Asylum**

The legal framework on asylum is largely in place. A list of safe countries of origin, including the Western Balkan partners and Turkey, was adopted in December 2019. The directorate in charge of integrating people under a protection status, which is now under the Ministry of Interior, was reorganised. In July 2019, new integration measures were developed, including financial assistance, language and culture courses, school enrolment for children and job placement. However, the number of people concerned remains limited. Montenegro currently has 27 people under an international protection status. Nine of the 12 adults are working.

All the apprehended migrants expressed their intention to request asylum, which put the country’s reception capacity under pressure. However, the number of those actually lodging asylum claims declined. Only 1,921 asylum requests were registered in 2019, a 38% drop from 2018, and 382 in the first three months of 2020, suggesting an increased mobility and a higher tendency to leave the country even before lodging the asylum request. In 2019, 9.6% of the applicants were women and 89% were adults. 34% of the requests were lodged by Moroccan nationals, followed by Algerian (15%), Iraqi (15%) and Syrian (14%) nationals. Most of them left before the end of the procedure.

Despite the relatively small number of asylum seekers who actually remained in the system, some concerns emerged over delays in the status determination process. Between January 2019 and March 2020, out of 77 cases where the applicants actually showed up at the interview, only 21 final decisions were taken. A number of interviews were postponed for technical reasons. Five people were granted an international protection status from January 2019 to March 2020, including 4 who received refugee status based on family reunification grounds, and only 1 subsidiary protection resulting from the request’s own merit. Thirteen appeal claims were lodged at the administrative court.

A total of 7,739 people were accommodated in the country’s reception centres in 2019, a 73% surge compared with 2019, mainly for short stays. This stretched the system to its limit. 4.5% of the asylum seekers were women. 71% of the asylum seekers stayed in the alternative centre in Konik where, despite recent improvements, standards still do not match those of a fully-fledged asylum centre. The centre, which has a 225-bed capacity, is a privately-owned facility that the asylum directorate rents at an expensive commercial price. The budget of the asylum system rose to € 1.7 million in 2019 (a twofold increase compared with 2018), 66% of which was spent on the alternative reception centre. Reception costs were entirely paid from Montenegro’s national budget, with no external support.

Against the backdrop of the COVID-19 outbreak, the reception procedure was adapted. Migrants intending to request asylum were accommodated first in the migrant detention centre, temporarily used as a quarantine facility, and transferred after 14 days to the centre for asylum seekers, provided they were tested negative on COVID-19. Preventive hygiene and disinfection measures were applied in all the centres. The total number of accommodated migrants between January and April 2020 reached 1197 .

In June 2019, the government approved a set of measures aimed at increasing the country’s reception capacity. A temporary container settlement was established in 2019 in Božaj, close to the border with Albania, but is yet to be opened. This will create an additional reception capacity for 60 people, adding to the existing 329 beds for asylum seekers in Spuz and Konik. The detention centre has a capacity of 40 beds.

**Visa Policy**

Montenegro’s visa policy is not fully aligned with the EU list of countries whose nationals require a visa and those who are exempt from this requirement. Under its tourism development policy, Montenegro still exempts nationals from Russia, Armenia, Kazakhstan, Azerbaijan, Belarus, Cuba, Ecuador, Kuwait and Turkey from short-term visa requirements – either on a seasonal basis for tourism purposes or permanently. Seasonal visa exemption measures are not in line with the EU *acquis*. The impact of the exemptions are closely monitored, and no impact on irregular migratory flows into the country have been observed so far.

Montenegro now has 31 consular missions connected through the national Visa Information System. Three visas were issued at border crossing points under conditions that were in line with the EU *acquis*. Under the post-visa liberalisation process, Montenegro continued to implement relevant measures to prevent the abuse of the visa-free regime with the EU and carried out reporting on it on a monthly basis. The number of asylum applicants from Montenegro in EU Member States and Schengen associated countries remained low, with 225 applications lodged in 2019.

**External border and Schengen**

The Status Agreement with the EU, providing for the deployment of European Border and Coast Guard teams with executive powers along Montenegro’s borders with the EU, was ratified by both sides and is expected to enter into force on the 1 July 2020. After Albania, this will only be the second such agreement to enter into force.

The National Coordination Centre (NCC), established in April 2019, is partially staffed and equipped and is yet to become fully operational. Montenegro’s border police still does not have a biometric migrant registration and identification system.

The 2014-2018 strategy on integrated border management (IBM), which was extended to 2019, continued to be implemented. A new IBM strategy for 2020-2024, encompassing the new EU European IBM concept, was adopted in January 2020. The number of positions in the border police is 1,364, of which 1,321 have already been recruited. The Advance Passenger Information System (API) is not operational.

Montenegro continued to strengthen its capacity through training, TAEIX support and the purchase of equipment. Some 115 forged documents were seized.

The cooperation with neighbouring countries on border management continued to be good. Joint patrols with all neighbouring countries were conducted, with a significant increase in joint patrols with Albania. 39,644 joint inspections were carried out, 713 requests for information were processed by the joint cooperation centres of Plav and Trebinje. The demolition plan for 29 cross-border alternative roads with Serbia, agreed in March 2019, has yet to be implemented. Montenegro continued to play a positive role at a regional level in promoting the Sea Gate initiative to address the challenges of the Adriatic high-risk zone for cross border crime. Montenegro cooperates actively with Europol, Interpol and Frontex on countering cross-border criminal activities. It participates in the Western Balkan risk analysis network under the aegis of Frontex.

In the context of the COVID-19 pandemic, all but six border crossings were closed for international road,railway or waterway traffic (including border crossing at airports).

**Judicial cooperation in civil and criminal matters**

As regards to judicial cooperation in criminal matters, the government adopted amendments to the Additional Protocol to the Convention on the transfer of sentenced persons in September 2019. Montenegro has well established cooperation with Eurojust. Montenegro was involved in 12 cases in 2019, which were mostly related to money laundering, swindling and fraud. Ten cases were requested by EU Member States and 2 cases by Montenegro. There are 2 Eurojust contact points in the country.

In the area of judicial cooperation in civil matters, Montenegro is still not a party to the 2007 Protocol to the Hague Convention on International Recovery of Child Support and Other Forms of Family Maintenance, relating to maintenance obligations, or to the 2000 Hague Convention on the International Protection of Adults.

The volume of judicial cooperation remained stable in 2019 compared with 2018, with 1,036 cases of mutual legal assistance in criminal matters and 867 cases in civil matters. The main partners continued to be the Western Balkans and the EU Member States.

**Police cooperation and the fight against organised crime**

The Police Directorate was re-organised into eight departments in April 2019. The department in charge of the fight against organised crime, encompassing the Special Police Unit (SPU) and four other units, totals 92 positions, of which 70 are filled. With clearer lines of command, this department is providing stronger and more coordinated resources in support to the investigations led by the Special Prosecutors’ Office (SPO). Operational capacity was increased in all departments, some functions were decentralised and the responsibility of regional police offices strengthened. However, human resources are still insufficient to cope with the workload in the SPU and other key units. The police needs more senior investigators into organised crime and drug smuggling, specialists on charge of special investigative measures and experts in cybercrime, economic crime and forensic.

The Administration for the Prevention of Money Laundering and Terrorism Financing (or FIU), now integrated in one of the 8 departments of the Police Directorate, has 30 positions, including 17 dealing directly with cases (up from 10 in the previous FIU). The FIU has applied to restore its membership of the Egmont Group, which was cancelled when the FIU ceased to exist in its previous legal form. In the meantime, Montenegro is using judicial cooperation, Interpol and Europol communication channels to access international intelligence on money laundering.

The Asset Recovery Office (ARO), established in the Police Directorate within the unit in charge of international police cooperation, has only 1 staff member. It acts rather as an ARO contact point for foreign AROs and for the Camden Asset Recovery Inter-agency Network (CARIN), than as a fully-fledged ARO in the meaning of the EU *acquis*. The freezing and recovery of assets remains with the Prosecution.

The number of police officers was reduced to 4,537, including 1,321 border police officers, from 5,400 in 2018, including border police. The ratio of police officers nevertheless remains high at 517/100,000 inhabitants, above the EU average of 326/100,000 recorded by Eurostat. The SPO and SPU have stabilised their personnel at around 50 and 32 staff members respectively. This includes 14 Special Prosecutors in the SPO. The SPO’s poor office conditions, which are hampering its efficient functioning, remain unaddressed.

The legal framework for the fight against organised crime is largely in place and aligned with the EU *acquis*. In December 2019, Montenegro once again amended its law on the prevention of money laundering and terrorism financing. It did so in order to reflect the changes in the FIU’s institutional setting, and ensure compliance with Financial Action task Force (FATF) recommendations on FIU’s independence. In 2020, the law will need to be amended again, to address remaining shortcomings and align it with the Fifth EU Anti-Money Laundering Directive. In May 2020, the Committee of experts on the evaluation of anti-money laundering measures and the financing of terrorism (MONEYVAL) formally removed Montenegro from the fourth round follow-up process, considering that the country had taken sufficient steps to remedy deficiencies that had been identified in 2015.

The draft law on internal affairs, which has been under preparation for 3 years has yet to be adopted. The suspension of some special investigative measures (SIMs), further to a 2018 Constitutional Court Ruling, has not been addressed. The prosecution remains deprived of using undercover activities or so-called “controlled delivery”, whereby a consignment of drugs is detected and allowed to go forward in order to secure evidence against the perpetrators.

The SPO conducted 31 investigations targeting 293 people in 2019. Some 95 people were indicted for organised crime offences. Final convictions were pronounced against 67 people, of which 62 people were convicted on the basis of plea bargains. Sentences in the context of plea bargains ranged from three months of in-house imprisonment to two years of imprisonment and fines from € 1,000 to € 50,000. In addition, up to 45 investigations were launched in relation to serious crime, a large majority of them involving drug smuggling; 62 final convictions for serious crime were pronounced, all based on plea bargains, with sentences from 3 months of in-house imprisonment to 2 years of imprisonment.

The criminal scene in Montenegro remains dominated by frequent gang-related murders. Up to 44 gang-related murders were recorded since 2012, including 10 in 2019 and two in the first three months of 2020. Homicides involving Montenegrin criminal groups have also taken place abroad (9 since 2018), including in Spain, Germany, Austria and Greece. At the same time, the number of arrests of members of crime groups reached the unprecedented number of 333 people from 2018 to the first quarter of 2020, including 19 arrested abroad.

In general, the number of investigations and prosecutions of serious and organised crimes increased exponentially in 2018-2019, compared with 2016-2017, by respectively 150% and 100%. This reflects the positive impact of the coordinated work of the SPO and SPU, an increased capacity to address drug smuggling and good international police and judicial cooperation. At the same time, the number of final convictions for organised crime offences remains low. Court proceedings are excessively lengthy as multiple adjournments are frequent. The use of plea bargain by the prosecution remains the norm. A suspected criminal, who becomes a cooperative witness in the investigation, is exempted from legal proceedings, notwithstanding the gravity of the offence. As a result, despite some notable exceptions, the criminal justice response appears generally lenient, with sentences, fine and asset confiscation disproportionally low compared with the gravity of the crime.

Montenegro has a national SOCTA (Serious and Organised Crime Threat Assessment). Montenegro does not have a centralised database on organised crime and corruption, collected from all relevant authorities, for strategic monitoring and policy-making purposes.

The Ministry of Interior continued to work on technical solutions to improve the **access of law-enforcement agencies to key databases**, but this access is currently insufficient, and does not include much needed single search features between interoperable databases. The department in charge of the fight against organised crime does not have direct access to Europol’s SIENA secure communication channel, as the Europol contact point is located in another department of the police. The internal secure communication mechanism established in 2017 between several key institutions has increased the number of exchanges, but it can be used for low security messages only, and it does not include the national land registry and the Central Bank. Only the FIU has a direct and automatic access to the Central Bank’s databases, as provided for under the relevant EU *acquis*.

**International police cooperation** continued to play a strategic role in the fight against Montenegrin criminal groups, whose members often live and operate outside of Montenegro. The number of communications (59,337) exchanged with foreign police services through Interpol rose by 40% compared with 2018. The number of communications exchanged through Europol reached 4,488, a stable number compared to 2018. Montenegro has an observer status in the European Network of Fugitive Active Search Units (ENFAST). Eighteen Montenegrin fugitives are currently targeted by an active search. In 2019, cooperation was particularly important with the police services of Germany, Austria, the Netherlands, and the United States. Montenegro is actively involved in Europol’s analytical and operational projects, which has been instrumental in the success of several police operations. Within Europol’s EMPACT policy cycle (European Multidisciplinary Platform against Criminal Threats) in 2020, Montenegro is co-leading the firearms policy area together with Spain. This makes it the first Western Balkans partner to co-lead an EMPACT priority area.

In 2019, the SPO launched 15 new **financial investigations** regarding 207 people and 152 legal entities, which added to the 29 financial investigations pending from 2018. Launching a financial investigation in parallel with the criminal investigation is legally possible but remains limited. In most cases, financial investigations start too late and remain focused on tracing assets, mainly with the aim of proceeding to an extended confiscation and, therefore, are not in line with EU practice and FATF standards. Instead, the prosecution conducts financial analysis within the criminal investigation to evaluate the proceeds of crime, but not on a sufficient scale to prove criminal acts, improve knowledge of criminal networks or uncover financial flows and investment of dirty money in the economy. Standard operating procedures for conducting financial investigations have been adopted. Montenegro has now a centralised bank account register, which includes only resident bank accounts for the time being.

There were no court convictions in **the fight against tobacco smuggling** in 2019. However, criminal proceedings were conducted on 3 large-scale cases, including 1 case involving 22 suspects. In another case, a well-known suspected smuggler, who had been sought for 20 years, was arrested. Seizures of illicit tobacco are regularly conducted by customs, the local or central police. The total amount of seizures in 2019 was 1,719 million cigarette packs, worth € 39 million and 1,531 kg of cut tobacco. However, despite the increasing efforts of law-enforcement agencies in this area, and improved cooperation between Montenegrin customs and EU and international partners, the number of cases initiated remains low, considering the estimated scale of tobacco smuggling from, to and across Montenegro.

The initial track record on **money laundering** was further developed, reflecting a stronger focus and an increased capacity of law enforcement agencies in this area. There were 2 final convictions for money-laundering in 2019, both achieved through plea agreements, leading to sentences of 3 and 5 month, respectively, and fine and compensation payments of up to €75,000. Two cases were pending before the court, including the prominent Atlas Bank case, in which the former owner of the bank was indicted for abuse of office in April 2019. Ten preliminary investigations and 7 investigations were conducted, regarding 122 entities, including one case of a value of €25 million. However, deficiencies continue to hamper the whole chain of criminal justice in addressing money laundering.

In a prominent case, 2 people suspected of laundering € 20 million from drug smuggling activities, who had been convicted in first instance to 11 years of prison in 2017, but acquitted in 2018 by an appeal court, won court cases against the state in September 2019 for unlawful detention. They are entitled to compensation of € 152,000.

The number of legal proceedings for **asset recovery** and the amount concerned have increased. However, temporary recovery orders were pronounced in only 6 cases in 2019, regarding 120 people, for € 4 million and a number of real estate properties. In a high-profile corruption case involving the former president of the country, large real estate and land properties were confiscated. In general, due to the limited scope of financial investigations, the amount of seized and confiscated asset is not yet at the expected level. The confiscation of assets of equivalent value, when the proceeds of the crime itself cannot be found, does not exist in Montenegrin practice. There is no national and standardised system for collecting statistics on frozen, seized and confiscated assets data, including their estimated value.

In 2019, 37 requests for verification of 137 individuals and 23 legal entities have been received by the Asset Recovery Office (ARO). Some 103 requests for verification of 217 individuals and 80 legal entities have been forwarded to foreign authorities.

In the **fight against trafficking in human beings,** the track record was further consolidated in 2019, reflecting a more targeted and coordinated approach to detecting trafficking offences. Montenegro had 11 trafficking cases in 2019, at different stages of the procedure, including 3 cases of trafficking within an organised crime group. Three cases involved sexual exploitation and in 2 cases, the victims were women. One final conviction was pronounced in November 2019, leading to unprecedented severe prison sentences. Two cases were pending before the court. In January 2020, the Montenegrin police uncovered a human trafficking network from Taiwan, leading to the arrest of 93 people, in the biggest-ever trafficking case in the Western Balkans.

The institutional capacity to address human trafficking was strengthened, under the leadership of a multi-disciplinary body, monitoring the implementation of the anti-trafficking strategy. The Podgorica High Prosecutor’s Office continues to oversee cases from lower instances that could present elements of trafficking. The Ministry of Interior established a department in charge of identifying and referring victims. Sixteen contact points for victim identification were appointed at local police units and trained. A public awareness campaign was launched, including a TV-clip on the risks of trafficking. Twelve NGOs benefit from state grants for prevention and protection activities, and one NGO runs a state-funded 24/7 SOS hotline.

Institutional capacity was strengthened in the area of **cybercrime.** This resulted in a 50% surge in the number of cases initiated (111 preliminary investigations and 4 investigations were launched for a broad range of cyber offences, such as on-line fraud, hacking, ransoming, selling of counterfeit goods, extortion, hate speech, child pornography). However, the number of staff in the concerned police unit is still insufficient.

In the area of **trafficking in weapons**, Montenegro seized 990 weapons in 2019, of which 514 were firearms. The government continued to implement the 2015-2019 action plan on illicit trafficking in firearms between the EU and the South East Europe region. The focal point for firearms was established and is operational. It consists in a team of police officers from different services, duly trained and equipped prior to formal appointment. The team is in charge of data collection, analysis and exchange within Europol projects and with the Southeast European Law Enforcement Center.

**Cooperation in the field of drugs**

There was no follow-up in addressing the deficiencies of the national drug information system, in accordance with EU standards. The National Drug Observatory (NDO) remains understaffed, has limited budget autonomy and does not sufficiently fulfil its coordination function. Montenegro provided a national drug report for the first time in 5 years. However, despite good technical and scientific capacity in the forensic laboratory and other institutions dealing with drug-related issues, data collection on drugs remains fragmented, and does not rely on protocols compliant with the EMCDDA standards. The National Early Warning System (NEWS) is not fully operational. The recommendations from a July 2018 report by the EMCDDA have not been addressed yet.

On the law-enforcement side, the police has two units in charge of drug-related crimes, one for petty drug-smuggling offences and the other for organised drug trafficking. The latter consists of only 8 staff members, despite the fact that drug smuggling is the main activity of Montenegrin crime groups. This unit does not have direct access to international channels of communication such as SIENA.

The authorities seized 2.4 tons of drugs in 2019, of which 2.2 tons were marijuana. Seizures of cocaine and heroin surged by 250% and 1,300% respectively compared with the previous year, reflecting international trends. In addition, 39 kg of cocaine and one ton of marijuana were seized abroad, as a result of international investigations. Montenegro participated in 4 multi-country police operations involving Austria, Slovenia, Croatia, Italy, Germany, France, the United States, Australia, Albania, and Serbia.

The number of drug cases investigated in Montenegro continued to increase in 2019, consolidating the trend of the previous years. The number of investigations into drug smuggling rose to 155 in 2019, of which five qualified as organised crime and 150 as serious crime. Eleven investigations were conducted with international cooperation, a 175% surge compared with 2018, leading to a number of successful high-profile operations.In a major international police operation conducted in February 2020, 5.7 tons of cocaine were seized and 7 crew members, including 4 Montenegrin nationals, arrested on a ship navigating from Venezuela to Greece. The operation was a result of cooperation between the United Kingdom, Serbia, the Netherlands, amongst other partners, and was based on the intelligence provided by the Montenegrin police. Another complex international investigation, led by Montenegro, supported by Europol and involving law enforcement agencies from Austria, Croatia, France, Portugal, Serbia and Slovenia, severely disrupted one of the smuggling routes from Central America to Europe. Eight individuals were arrested in March 2020 in several countries after 20 locations had been searched. In another prominent case, in the port of Hamburg German police seized half a ton of cocaine from a ship sailing under the Montenegrin flag and owned by the Bar Shipping-Montenegro Line, a state-owned company. The action was conducted by the Montenegrin police with colleagues from the United States, Germany and several other European countries.

The court pronounced 37 final convictions for drug smuggling associated with organised crime in 2019, including 34 based on plea bargains. One hundred and twenty-six final convictions for drug smuggling associated with serious crime were pronounced, of which 73 were based on plea bargains. The total amount of fines and penalties recovered was € 178,000. In serious crime cases, financial investigations, seizure and confiscation of the proceeds of drug-related crimes remained rare. The lack of adequate storage for seized drugs and precursors prior to destruction was not addressed.

**Fight against terrorism, anti-radicalisation**

In November 2019, Montenegro and the EU signed an arrangement to implement the Joint Action Plan on Counter-Terrorism for the Western Balkans covering 2019-2020.

The law on international restrictive measures remains to be amended to bring it in line with European standards on prevention of terrorism financing. The law on critical infrastructure was adopted in October 2019, but needs to be complemented by secondary legislation identifying the list of infrastructures considered as critical for the state security. The strategy for the suppression of violent extremism and a related action plan were adopted in February 2020. Montenegro has yet to adopt the strategy for the prevention and suppression of terrorism, money laundering and terrorism, which expired in 2018.

The threats of terrorism and violent extremism remained relatively low in the country. In May 2019, a multi-disciplinary mechanism was established, consisting of representatives of Ministries of Labour, Health, Education, Social Welfare, Interior, police, local authorities, and NGOs, to follow up on individual cases where there is a risk of radicalisation leading to violent extremism and terrorism and to propose adequate responses. A hotline to report on risks of violent extremism was set up. Prison staff have been trained on prevention work. A risk assessment for the identification of radicalised prisoners and those that are at risk of radicalisation has been drafted. Resources for religious counselling of prisoners were put in place.

Montenegro continued to cooperate closely with Interpol and Europol and to contribute to the Terrorism Risk Assessment and Analysis for the Western Balkans. Montenegro is actively participating in the implementation of the Western Balkan Counter Terrorism Initiative (WBCTi). Cooperation with the Europol Internet Referral Unit (IRU) for dealing with terrorist content online has started.

1. \* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence. [↑](#footnote-ref-1)
2. All these groups are considered under the wider ‘Roma’ umbrella term under the EU framework for national Roma integration strategies. [↑](#footnote-ref-2)